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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

VICKI J. AZNARAN and RICHARD N. AZNARAN,

Plaintiffs,

vs.

CHURCH OF SCIENTOLOGY OF CALIFORNIA, et al.,

Defendants.

AND RELATED COUNTER CLAIM

No. CV-88-1786-JMI (Ex)

NOTICE OF MOTION AND  
MOTION FOR RECONSIDERATION  
OF ORDER GRANTING MOTION  
FOR CHANGE OF VENUE TO  
NORTHERN DISTRICT OF  
TEXAS; MEMORANDUM OF  
POINTS AND AUTHORITIES;  
DECLARATIONS OF  
RICHARD N. AZNARAN, VICKI  
J. AZNARAN, JOHN C.  
ELSTEAD, AND FORD GREENE

Date: Oct. 5, 1992

Time: 10:00 a.m.

Ctrm: Hon. James M. Ideman

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on Oct. 5, 1992, 1992, at  
10:00 a.m., plaintiffs Vicki J. Aznaran and Richard N. Aznaran  
will move the above-entitled court, located at 312 North Spring

1 Street, Los Angeles, California 90012, for an order reconsidering  
2 and vacating its order transferring the herein action to the  
3 United States District Court for the Northern District of Texas,  
4 entered on August 28, 1992.

5 This motion is brought pursuant to Federal Rule of Civil  
6 Procedure 60 (b)(4) & (6) and pursuant to Local Rule 7.16.

7 This Motion is based upon this Notice and Motion, the  
8 Memorandum of Points and Authorities filed in support thereof, the  
9 attached declarations, such further points and authorities and  
10 declarations as may be submitted in support thereof, and the  
11 complete files and records in this action.

12  
13 DATED: September 10, 1992



14  
15  
16 ~~FORD GREENE and JOHN C. ELSTEAD~~  
17 Attorneys for Plaintiffs  
18 VICKI J. AZNARAN and RICHARD N.  
19 AZNARAN  
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2  
3 I. PRELIMINARY STATEMENT

4  
5 As will be shown, the unintended effect of the subject  
6 order is tantamount to a dismissal of plaintiffs' case. It also  
7 appears to have been mistakenly entered at a time when a motion to  
8 recuse the Court was pending and when, consequently, the Court was  
9 without power to properly enter it.

10 The Central District of California, not the Northern  
11 District of Texas, where the plaintiffs reside, was properly  
12 chosen for venue because this is the only district in the United  
13 States where the evidence needed to prove the plaintiffs' case is  
14 located or obtainable. Contrary to what the defendants assert,  
15 all of the evidence and witnesses (except for plaintiffs)  
16 essential for the plaintiffs' case are either located in the  
17 Central District or are within the subpoena power of Central  
18 District process.

19 The only Texas connection, and a tenuous one at that, is  
20 that the plaintiffs' involvement with the defendants began there.  
21 Shortly thereafter, however, the defendants transferred the  
22 plaintiffs to the Los Angeles area, where nearly all of the  
23 alleged wrongful conduct that harmed the plaintiffs occurred. <sup>1/</sup>

24  
25 <sup>1</sup> For example, all of the allegations regarding the  
26 plaintiffs' causes of action for false imprisonment, intentional  
27 infliction of emotional distress, loss of consortium, conspiracy,  
28 breach of contract, and fraud concern conduct that was perpetrated  
against the plaintiffs by the defendants in California and this is  
where all of the plaintiffs' corroborating evidence and witnesses  
are located. See paragraphs 16, 17, 18, 19, 20, 21, 22, 23, 24,  
25, and 26 of plaintiffs' complaint.

1 The rest occurred in outlying counties, such as Riverside and San  
2 Bernadino. All of the defendants, by their own admissions in  
3 their answers to plaintiffs' complaint, are located in California  
4 and subject to the process of the Central District.

5 Trial in Texas, therefore, is a disaster for the  
6 plaintiffs, because, there, plaintiffs will not have access to the  
7 proof they need to establish their case. Many of the California  
8 witnesses that the plaintiffs need only will appear by subpoena  
9 and not by agreement, which means that these witnesses will not be  
10 available in Texas. Many of them are former members of the  
11 defendants, who know they will incur the substantial wrath of the  
12 defendants and become subject to the "fair game" policy of the  
13 defendants if they voluntarily testify against the defendants.  
14 Some of them, such as Gerald Armstrong, Laurel Sullivan and Howard  
15 Schomer, have also been involved in prior litigation with the  
16 defendants and, pursuant to settlement agreements with the  
17 defendants, cannot voluntarily testify against the defendants.

18 Even if the needed witnesses would voluntarily appear in  
19 Texas, the cost would be prohibitive for the plaintiffs. Aside  
20 from the expert witnesses, who are all California residents and  
21 who were all retained in anticipation of trial in California, we  
22 are talking about over 30 witnesses, travel and lodging for which  
23 would, at a minimum, cost in excess of \$50,000.00. As to the  
24 defendants' alleged offer to provide "staff" in Texas at their  
25 cost, it is merely an offer and nothing more. In any event,  
26 "staff" witnesses are useless for the plaintiffs' case. The  
27 plaintiffs need to subpoena the upper level management people and  
28 officers, such as David Miscavige, who resides in California and

1 who controls all of the defendants' organizations.

2  
3 **II. THE ORDER OF TRANSFER SHOULD BE SET ASIDE**

4 **BECAUSE AT THE TIME IT WAS ENTERED,**

5 **THERE WAS A PENDING MOTION TO RECUSE THE COURT.**

6  
7 Given the timing of certain matters filed by the  
8 defendants, the Court may not have been aware that prior to August  
9 26, 1992, when it signed the order of transfer, and August 28,  
10 1992, when said order was entered, the defendants had filed a  
11 second motion to recuse the Court. That motion to recuse was  
12 served and filed on August 25, 1992.

13 This means that, as of August 25, 1992, the Court was  
14 immediately divested of power to take any action in the case  
15 beyond those acts needed to deal with the motion to recuse. In  
16 other words, the Court did not have the power to sign and enter  
17 the subject order of transfer. This loss of power was no less  
18 significant by virtue of the fact that the subject second motion  
19 to recuse was made pursuant to 28 U.S.C. § 455 and not 28 U.S.C.  
20 § 144, as was the first motion to recuse. <sup>2/</sup>

21 Whether made under section 144 or section 455, a motion  
22 to recuse in the Central District is treated identically as to  
23 both substance and procedure. Substantively, they are treated the  
24 same because, under law, they use similar language and are  
25 intended to cover the same area of conduct. In short, they are

26  
27 <sup>2</sup> The second motion to recuse was obviously made under  
28 section 455 because a party may only file one motion to recuse  
under section 144. 28 U.S.C. § 144.



1 construed in pari materia. ("upon the same matter or  
2 subject.") <sup>3</sup>/ United States v. Carignan (9th Cir. 1979) 600 F.2d  
3 762, 764; United States v. Olander (9th Cir. 1978) 584 F.2d 876,  
4 882; United States v. Conforte (D.Nev.1978) 457 F.Supp. 641, 660,  
5 aff'd, 624 F.2d 869 (9th Cir.), cert. denied, 449 U.S. 1012  
6 (1980); In Re Corrugated Container Antitrust Litigation (5th  
7 Cir.) 614 F.2d 958, 965, cert. denied 499 U.S. 888 (1980); United  
8 States v. Kelly (1st Cir. 1983) 712 F.2d 884, 889; United States  
9 v. Gigax (10th Cir. 1979) 605 F.2d 507, 512. (both sections to be  
10 considered together.) "In light of the difference in procedures  
11 for sections 144 and 455, it is apparent that the two sections are  
12 not redundant, but are complementary . . ." United States v.  
13 Silba (9th Cir. 1980) 624 F.2d 864, 868.

14 Procedurally, they are treated the same by virtue of  
15 General Order 244 in the Central District which, as explained by  
16 the Honorable W.W. Schwarzer in Federal Civil Procedure Before  
17 Trial (1991, The Rutter Group), § 16:181.1, p. 16-36.6,

18 "All motions to disqualify (under §144 or  
19 §455) are randomly assigned to another judge  
20 immediately on their being filed. The  
21 challenged judge does not determine the legal  
22 sufficiency of the affidavit and cannot  
23 proceed further in the case until the motion  
24 is determined." (Emphasis added.)

25 In short, the Central District has adopted the rule of

26  
27 <sup>3</sup> The definition of "in pari materia" is: "Upon the same  
28 matter or subject. Statutes in pari materia are to be construed  
together." H.C. Black, Black's Law Dictionary (4th Ed. 1968), at  
898.

1 section 144 for motions, such as at bar, which are made under  
2 section 455. That rule, i.e., that of section 144, requires that  
3 a judge before whom is pending a motion to recuse "shall proceed  
4 no further therein, but another judge shall be assigned to hear  
5 such proceeding." Thus, when a motion to recuse is filed, "the  
6 judge must cease to act in the case and proceed to determine the  
7 legal sufficiency of the affidavit." Bell v. Chandler (10th Cir.  
8 1978) 569 F.2d 556, 559. Such motion directly affects "the power  
9 of the judge against whom it was directed to proceed further with  
10 the case." Carroll v. Zerbst (10th Cir. 1935) 76 F.2d 961, 962;  
11 Daily Mirror, Inc. v. New York News, Inc. (2d Cir. 1976) 553 F.2d  
12 53, 56 (court must "suspend further proceedings" until recusal  
13 motion is determined). Any acts taken by the challenged judge,  
14 such as the subject order of transfer are, thereof, acts in excess  
15 of the court's power and should be set aside.

16 Federal Rule of Civil Procedure 60 (b)(4)(6) states that  
17 a court may relieve a party from an order that is void or for some  
18 other reason justifies relief from the operation of the order.

19 Based upon the language of 28 U.S.C. 455, taken in  
20 conjunction with the case law and General Order 224 interpreting  
21 it in pari materia with 28 U.S.C. 144, the Court did not have the  
22 power to issue its Order transferring this case to Texas because  
23 defendants' renewed recusal motion was then pending.

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1 III. RECONSIDERATION SHOULD BE GRANTED BECAUSE THE COURT FAILED TO  
2 CONSIDER MATERIAL FACTS PRESENTED TO IT BEFORE ITS DECISION  
3 GRANTING THE MOTION TO TRANSFER THIS CASE TO TEXAS.

4  
5 A. The Court Incorrectly Ruled That Many Of Plaintiffs'  
6 Claims Have No Basis In California.

7  
8 "It is black letter law that a plaintiff's  
9 choice of forum is a paramount consideration  
10 in any determination of a transfer request,  
11 and that choice ' . . . should not be lightly  
12 disturbed.' In accord with that sound  
13 doctrine, one district court recently  
14 observed: 'The decision to transfer is in the  
15 court's discretion, but a transfer is not to  
16 be liberally granted.' The burden is on the  
17 moving party to establish that a balancing of  
18 proper interests weigh in favor of a transfer,  
19 and ' . . . unless the balance of convenience  
20 of the parties is strongly in favor of  
21 defendant, plaintiff's choice of forum should  
22 prevail.'"

23 Shutte v. Armco Steel Corp. (3d Cir. 1970) 431 F.2d 22, 25, cert.  
24 denied 401 U.S. 910 (1971). Even if a plaintiff is not litigating  
25 on his "home turf," the importance of his choice of forum is not  
26 diminished if the forum is "at the site of the activities at issue  
27 in the lawsuit." Sports Eye, Inc. v. Daily Racing Form, Inc.  
28 (D.Del. 1983) 565 F.Supp. 634, 637.

1 Vicki J. Aznaran and Richard N. Aznaran are the  
2 plaintiffs in this case. They have the burden of proof to  
3 establish their tort claims. In light of the legal requirement  
4 that they discharge said burden, and because all of their  
5 witnesses were located in California, primarily in Los Angeles,  
6 the Aznarans chose venue in the United States District Court,  
7 Central District of California.

8 The Court is incorrect when it states "First, many of  
9 the claims Plaintiffs make do not have their basis in facts  
10 alleged to have occurred in California; indeed, it appears that  
11 many of the claims arose in Texas." ("Order Granting Defendants'  
12 Motion To Transfer This Action To The United States District Court  
13 For The Northern District Of Texas" filed August 27, 1992,  
14 hereinafter "Order" at 4:18-21.) It is true that the Aznarans  
15 first became involved with Scientology in Texas in 1971-72  
16 (Plaintiff's Appendix of Fact In Opposition To Defendants' Motions  
17 For Summary Judgment, hereinafter "Appendix", lodged August 19,  
18 1992 at pp. 2-6).<sup>4</sup> In 1974, however, Scientology brought Vicki  
19 Aznaran to Los Angeles where she was subjected to further,  
20 continuing and on-going fraud, intentional infliction of emotional  
21 distress and coercive persuasion, in consequence of which she and  
22 Richard was deprived of marital consortium. (Id. at 18:14-19:26.)  
23 From 1981 through 1987, Scientology continuously posted the  
24 Aznarans in the Southern California area where they were subjected

---

26 <sup>4</sup> The Aznarans were deceived into becoming involved with  
27 Scientology and unwittingly subjecting themselves to undue  
28 influence and coercive persuasion. This continued throughout  
their affiliation with defendants. (See, Appendix at pp. 2:9-  
12:11; 50-53.)

1 to constant mistreatment <sup>5</sup>/, including ongoing fraud, intentional  
2 infliction of emotional distress, loss of consortium, denial of  
3 minimum wages, invasion of privacy, and false imprisonment, until  
4 they escaped from Scientology. (Id. at 24:6-53:23.)

5 Therefore, in this case as in Sport's Eye, "it is clear  
6 from the record that the site of the defendants' alleged wrongful  
7 conduct was California. Consequently, this litigation has its  
8 'center of gravity' in California." Sports Eye, 565 F.Supp. at  
9 638. The plaintiffs' "choice of forum . . . is entitled to great  
10 weight" National Mortgage Network, Inc. v. Home Equity Centers,  
11 Inc. (E.D.Pa. 1988) 683 F.Supp. 116, 119, and the Court was  
12 incorrect to disregard plaintiffs' choice of forum and erroneously  
13 rule that most of the claims have no factual basis in California.

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23 <sup>5</sup> Some of the most egregious acts of abuse transpired in  
24 Southern California. For example, in February 1983, after  
25 threatening to "blow your fucking head off," David Miscavige  
26 sentenced Vicki to the "Running Program" in "Happy Valley" where  
27 for 14 hours a day for three months she was compelled to run  
28 around a telephone pole in the desert, rain or shine. She became  
suicidal. (Appendix at pp 28:6-29:21.) Again, in March 1987,  
Miscavige sentenced Vicki to Happy Valley where she was locked up  
and guarded for one month. While incarcerated and mistreated, her  
uterus became infected and she was denied medical attention and  
the right to contact Richard, her husband. (Appendix, at 37:2-  
40:23.)

1           B.    The Court Failed To Address The Argument That The  
2                    Court's Order Transferring The Case To Texas Would  
3                    Deprive The Aznarans Of Their Choice Of Forum Which  
4                    Was Predicated Upon Their Ability To Discharge Their  
5                    Burden Of Proof And Prosecute Their Case.

6  
7           In addition to the fact that many of their causes of  
8           action transpired in Southern California, the Aznarans filed their  
9           action in Los Angeles because that venue was where they would have  
10          the best opportunity to successfully prosecute their claims.

11          Since Vicki was the former President of defendant  
12          RELIGIOUS TECHNOLOGY CENTER and Richard was the former Chief of  
13          Security, Worldwide, for Scientology, they were both aware that  
14          Scientology has a policy whereby its members are not to cooperate  
15          in litigation or appear as witnesses. They were both aware of  
16          former high-ranking Scientologists such as Howard Schomer, Laurel  
17          Sullivan, Gerald Armstrong, and others, having been bought off and  
18          signing settlement agreements not to testify in the absence of  
19          compulsion and to avoid service of process, would be unavailable  
20          in any jurisdiction outside of California. <sup>6/</sup> Indeed, as part  
21          of Richard's job, he instructed Scientologists how to avoid

22 \_\_\_\_\_  
23          <sup>6</sup> For an example of one such agreement that was not  
24          supposed to see the light of day, see, Declaration of Gerald  
25          Armstrong Regarding Alleged "Taint" Of Joseph A. Yanny, Esquire,  
26          filed herein on September 4, 1991, at p. 20-21. ("Plaintiff shall  
27          not make himself amenable to service of any such subpoena in a  
28          manner which invalidates the intent of this provision.") Indeed,  
29          in Church of Scientology International v. Gerald Armstrong, Los  
30          Angeles Superior Court, Case No. BC 052395, CHURCH OF SCIENTOLOGY  
31          INTERNATIONAL, defendant herein, is presently suing Armstrong for  
32          breach of contract and injunctive relief for having executed the  
33          above referenced declaration in the case at bar.

1 service of process, and was responsible for preventing process  
2 servers from gaining access to Scientology compounds and the  
3 monitoring of people from Scientology who could provide damaging  
4 testimony in litigation against them. <sup>7/</sup> (Declarations of Vicki  
5 J. Aznaran and Richard N. Aznaran.)

6 Based upon the Aznarans' knowledge of the manner in  
7 which Scientology operates, <sup>8/</sup> they chose Los Angeles as the most  
8 appropriate forum in which to prosecute their case. <sup>9/</sup> The  
9 Court's transfer order deprives them of the critical benefits to  
10 which they are entitled by litigating their claims in this Court.

11 \\\

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13 \\\

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16 \_\_\_\_\_  
17 <sup>7</sup> In order to attempt to prevent individuals knowledgeable  
18 about Scientology from testifying in litigation, part of Richard's  
19 job was to monitor their activities. Those individuals included,  
20 but were not limited to Howard Schomer, Gerald Armstrong, Peter  
21 Gillham, Jr., Jeff Shervell, John Nelson, David Mayo and Diana  
22 Reisdorff.

23 <sup>8</sup> For the most recent published judicial discussion of the  
24 corporate machinations of the Scientology Organization, including  
25 defendants, see, Church of Spiritual Technology v. United States  
(U.S. Claims Court, No. 581-88T, June 29, 1992) Bureau of National  
26 Affairs Tax Decisions and Rulings (No. 131), July 8, 1992, at K-7.  
27 Review of an older, but similar, discussion shows the consistency  
28 of the manner in which Scientology does business, namely the  
systemic obstruction of justice. Church of Scientology v.  
Commissioner of Internal Revenue (1984) 83 T.C. 381, aff'd, 823  
F.2d 1310 (9th Cir. 1987).

<sup>9</sup> It is also the corporate headquarters of each of the  
defendants. The corporate headquarters for defendants RELIGIOUS  
TECHNOLOGY CENTER, CHURCH OF SCIENTOLOGY INTERNATIONAL, CHURCH OF  
SPIRITUAL TECHNOLOGY, and AUTHOR SERVICES, INC. are located in  
Hollywood, California. Declaration of Ford Greene, Exs. 1, 2 & 3.

1 "The plaintiff has made his choice of action  
2 in this forum. The Act [28 U.S.C. § 1404 (a)]  
3 was not intended to defeat the plaintiff in  
4 the right of bringing his action in such forum  
5 as he deemed proper to prosecute an action for  
6 such remedy as he may have under the  
7 circumstances, and wherever possible,  
8 consideration ought to be given to the choice  
9 of the plaintiff's forum."

10 Walter v. Walter (W.D.Pa. 1964) 235 F.Supp. 146, 147.

11 Some of those witnesses, including Howard Schomer, <sup>10/</sup>  
12 Laurel Sullivan <sup>11/</sup> and Vaughn Young, <sup>12/</sup> refuse to travel to  
13 Texas to testify and are not subject to the subpoena power of a  
14 Texas court whereas they are subject to compulsory process in this  
15 District. <sup>13/</sup> Therefore, the Court's order transferring the case

16 \_\_\_\_\_  
17 <sup>10</sup> Howard Schomer advised plaintiffs' counsel Ford Greene  
18 that under no circumstances would he travel to Texas to testify in  
19 this case. (Declaration of Ford Greene.)

20 <sup>11</sup> Sullivan, as well as Schomer and Armstrong, has signed  
21 an agreement which requires non-cooperation with litigants adverse  
22 to Scientology. (Declaration of Ford Greene.)

23 <sup>12</sup> On or about August 10, 1992, one week after the Aznarans  
24 filed their opposition to defendants' motion to transfer, Vaughn  
25 Young telephoned Vicki Aznaran and told her that defense attorney  
26 KENDRICK MOXON had telephoned him and in a threatening tone  
27 demanded "What do you think you are doing?" in allowing himself to  
28 be listed as a plaintiffs' witness. Then, he told Vicki that he  
could not travel to Texas to testify on her behalf. Vaughn Young  
is a former member of the Guardian's Office. Vaughn Young can  
testify as to the practices employed at the Happy Valley  
incarceration camp, the practices of the Fair Game Policy, working  
at defendant AUTHOR SERVICES, INC. with Vicki, and to the loss of  
consortium that both Aznarans experienced. (Declaration of Vicki  
Aznaran.)

<sup>13</sup> See, Declaration of Vicki J. Aznaran for 22 additional  
witnesses, each one of whom resides in the Los Angeles area.



1 to Texas has the practical effect of depriving plaintiffs of their  
2 ability to discharge their burden of proof on both their claims  
3 and on defendants' defense that they did not even exist when the  
4 torts alleged herein were perpetrated. <sup>14/</sup> In its opinion  
5 supporting the transfer order, the Court failed to address this  
6 argument, and granted a motion that in effect has destroyed  
7 plaintiffs' ability to prosecute their claims. <sup>15/</sup>

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<sup>14</sup> For example, the Court noted that "According to  
10 Defendants, many of the claims raised by Plaintiffs are more than  
11 15 years old and predate the very existence of Defendants."  
(Order at 2:1-3.)

12 In this regard, plaintiffs alleged in their complaint that  
13 defendants were "sham corporate structures to evade prosecution  
14 generally" (Complaint, ¶ 16, p. 7:14-14) all of which "were  
15 created as an attempt to avoid payment of taxes, and civil  
16 judgments. Due to the unity of personnel, commingling of assets,  
17 and commonality of business objectives, the attempt at separation  
18 of these corporations should be disregarded by the Court." (Id. ¶  
6, p. 2:22-128.)

19 In December 1981 Vicki was assigned to work at defendant  
20 AUTHOR SERVICES, INC. and commissioned to reorganize the corporate  
21 structures of Scientology as well as effect sham sales of L. Ron  
22 Hubbard's book Dianetics to the other corporate defendants "as a  
23 vehicle for transferring assets among them." (Id. ¶ 16, pp. 7:23-  
24 8:1.)

25 An essential witness required to prove these allegations is  
26 Howard Schomer. Mr. Schomer has signed a settlement agreement  
27 wherein he has promised not to testify against Scientology unless  
28 subpoenaed. (See, Plaintiffs's Opposition to Defendants' Motion  
For Change Of Venue To Northern District Of Texas, p. 15:19-16:9.)  
Schomer will not travel to Texas to testify. (Declaration of Ford  
Greene.)

<sup>15</sup> Plaintiffs argued: "One of the paramount issues in this  
case is that of corporate control and how it is implemented by  
members of the Sea Organization in total disregard of any  
differences between corporate entities. Other than plaintiffs,  
there are no witnesses in the State of Texas who can testify about  
who controlled the Scientology Organization during the period when  
the Aznarans were members. Los Angeles is loaded with them. Many  
of the same witnesses will also be able to testify about  
defendants' mistreatment of the Aznarans and the atmosphere of  
coercion generated by that organization's policies such as Fair  
Game and practices such as Rehabilitation Project Force ("RPF")."  
(Plaintiffs' Opposition at 13:15-25.)

1 "Although the lack of compulsory process is  
2 normally not a strong factor unless the  
3 potential witness has demonstrated  
4 recalcitrance, it would be imprudent to  
5 proceed in a forum where none of the important  
6 witnesses is subject to process. That would  
7 unnecessarily risk a major impediment to an  
8 effective trial."

9 Harris Trust and Savings Bank v. SLT Warehouse Company, Inc.  
10 (N.D.Illinois 1985) 605 F.Supp. 225, 229.

11 Issuing the order to transfer was a mistake that the  
12 Court must correct.

13  
14 **C. The Court Failed To Address Plaintiffs' Argument**  
15 **That The Cost Of Litigating The Case In Texas Would**  
16 **Be Prohibitive And Interfere With Plaintiffs' Right**  
17 **To Legal Representation Of Their Choice.**  
18

19 "In weighing the convenience of the parties,  
20 the court may take into account the financial  
21 strength of each. [Citation.] The court may  
22 give increased weight to this factor if a  
23 financially superior defendant through the  
24 actions complained of has contributed to the  
25 financial difficulties of a plaintiff."

26 Galonis v. National Broadcasting Company, Inc. (D.New Hampshire  
27 1980) 498 F.Supp. 789, 793. Thus, courts have found the parties  
28 relative ability to undertake a trial in any particular forum to

1 be a proper and important consideration on a § 1404 (a) motion.  
2 The Butterick Company, Inc. v. Will (7th Cir. 1963) 316 F.2d 111,  
3 113. A relevant consideration in determining a motion to transfer  
4 "is the parties' relative financial ability to undertake a trial  
5 in any particular forum," including the cost of counsel's  
6 transportation, which is of direct relevance to the convenience of  
7 the parties. Houk v. Kimberly-Clark Corp. (D.C.Mo. 1985) 613  
8 F.Supp. 923, 929-30.

9 It will cost plaintiffs from \$50,000.00 to \$80,000.00 to  
10 make the witnesses whose cooperation they can obtain available to  
11 testify in Texas. (Declaration of John Elstead.) Moreover,  
12 Scientology exploited plaintiffs for 15 years for what was  
13 essentially free labor at the pay rate of no more than \$17.20 per  
14 week. (Appendix, p. 23:7-13.) When they were being kept at the  
15 hotel in Hemet immediately before their escape from Scientology,  
16 the Aznarans possessed \$50 between them. (Appendix, 41:10-42:8.)  
17 It was Scientology's 15-year exploitation of the Aznarans which  
18 created their lack of financial well-being as well as the  
19 necessity of bringing the instant lawsuit.

20 The Court failed to address the question of the expense  
21 to plaintiffs that was raised in Plaintiff's Opposition at 10:6-  
22 14. Indeed, the cost of litigating the case in Texas would bring  
23 financial ruin to the Aznarans. (Declaration of Richard Aznaran.)  
24 Such a result is unfair to a litigant. Actmedia, Inc. v. Ferrante  
25 (S.D.N.Y. 1985) 623 F.Supp. 42, 44.

26 Scientology, on the other hand, is extremely well  
27 financed. For example, defendant CHURCH OF SPIRITUAL TECHNOLOGY  
28 received from another Scientology organization a start up grant of

1 \$17.95 million in 1983 and receives unrestricted annual grants  
2 ranging from \$623,000 to \$2.8 million from co-defendant RELIGIOUS  
3 TECHNOLOGY CENTER. Church of Spiritual Technology v. United  
4 States (U.S. Claims Court, No. 581-88T, June 29, 1992) Bureau of  
5 National Affairs Tax Decisions and Rulings (No. 131), July 8,  
6 1992, at K-7. (Exhibit 4 to Declaration of Ford Greene.)

7 When the result of the transfer of the case to Texas is  
8 the elimination of the financial resources available to a party,  
9 that order is unfair. "Such a denial of the plaintiff's cause of  
10 action could not be 'in the interest of justice.'" General  
11 Portland Cement Co. v. Perry (7th Cir. 1953) 204 F.2d 316, 320.

12  
13 D. Defendants' "Indication" That They Will Make Their  
14 Staff Available In Texas At Their Own Expense Is  
15 Illusory Because Defendants Would Have To Produce  
16 Said Unspecified Witnesses Anyway.

17  
18 Defendants stated that "most of the witnesses to be  
19 called by either side are . . . employees of defendants . . ."  
20 (Defendants' Notice Of Motion And Motion To Transfer This Action  
21 To The United States District Court For The Northern District Of  
22 Texas; Memorandum Of Points And Authorities, Declaration Of  
23 Laurie J. Bartilson In Support Thereof at 7:26-28.)

24 In support of its order the Court states ". . .  
25 Defendants indicate that they are willing to stipulate that they  
26 will make staff who are percipient witnesses to the matters at  
27 issue herein available at a trial in the Northern District of  
28 Texas at Defendants' expense since they believe that such an

1 expense would be far less expensive than persuading unwilling  
2 witnesses to come to trial in California from Texas." (Order at  
3 2:20-26.)

4 This consideration, however, is meaningless because  
5 defendants could compel the attendance of their employees anyway.  
6 In Galonis, supra, 498 F.Supp. at 793, the court stated, "A  
7 defendant's motion to transfer under §1404(a) may be denied when  
8 the witnesses are employees of the defendant and their presence  
9 can be obtained by that party." It is not fair that Scientology,  
10 by merely agreeing to do that which it would have to do anyway,  
11 can deprive plaintiffs of their choice of forum and access to  
12 witnesses and proof they need to prosecute their claims.

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1 E. The Court Misconstrued The Law Which States  
2 That Familiarity With The Litigation And The  
3 Law Of The Forum State Weighs Against Transfer.  
4

5 In its discussion, the Court stated:

6 ". . . Plaintiffs' argument that transfer  
7 would eliminate the Court most familiar with  
8 Scientology-related litigation, in general,  
9 weighs in favor of transfer rather than  
10 against it. Any perceived 'Scientology  
11 expertise' relied upon by Plaintiffs in  
12 choosing this forum is misguided. The judges  
13 of this Court do not, by any means, consider  
14 themselves 'Scientology experts.' [<sup>16</sup>/] In  
15 any event, since a trial court should attempt  
16 to avoid intimate knowledge about the parties  
17 that may color its judgment in a case, this  
18 argument only lends force to Defendants'  
19 contention that transfer is appropriate."

20 (Order, p. 5:8-18.)

21 Plaintiffs simply argued, and argued correctly, that the  
22 court most familiar with the controversy should be the court that  
23 hears the case, particularly in a diversity case when the  
24 transferee court is most familiar with the applicable state law.  
25 (Opposition, at 10:18-11:13.) Indeed, in Van Dusen v. Barrack

26  
27 <sup>16</sup> The Court's choice of the terms "Scientology expertise"  
28 or "Scientology experts" which it placed in quotes is strange  
inasmuch as said terms were never used by plaintiffs and such  
arguments never forwarded by them.

1 (1964) 376 U.S. 612, 645, <sup>17</sup>/ the United States Supreme Court  
2 held that in diversity actions the "interests of justice" favors  
3 having federal judges who are familiar with the applicable state  
4 law try a case. Similarly, in Gulf Oil v. Gilbert (1947) 330 U.S.  
5 501, 509, (also cited by the Court herein) the Court stated that  
6 it is preferable to try a diversity case "in a forum that is at  
7 home with the state law that must govern the case."

8 In this case, tort claims of intentional infliction of  
9 emotional distress, fraud, invasion of privacy and false  
10 imprisonment are based upon facts that occurred in California and  
11 therefore are governed by California law. "Generally speaking, it  
12 is preferable for a court of the state whose substantive law  
13 controls the action to hear the case, and this is a factor to be  
14 considered on a motion for transfer." Sports Eye, 565 F.Supp. at  
15 639.

16  
17 **F. The Court Failed To Properly Balance The Relevant**  
18 **Factors When It Granted The Motion To Transfer This**  
19 **Case To Texas.**  
20

21 Of all defendants' "key witnesses" which have provided  
22 the apparent justification for the Court's ordering the transfer  
23 of the case to Texas, defendants have taken the depositions only  
24 of plaintiffs' parents. With respect to the other witnesses,  
25 defendants have not deposed them. (See Opposition at 6:24-7:28)  
26 As to the Los Angeles witnesses identified by the Aznarans, no  
27

28 <sup>17</sup> Cited by the Court herein in its opinion at 3:14.

1 depositions have been taken either. Thus, the transfer of the  
2 case to Texas has the effect of depriving the Aznarans of the  
3 testimony of the Los Angeles witnesses, and were the case to  
4 remain in Los Angeles, defendants would be possibly deprived of  
5 the testimony of the Texas witnesses that it failed to depose.  
6 Thus, on the basis of either obtaining, or being deprived of  
7 testimony, plaintiffs and defendants stand equally. Therefore, to  
8 transfer the case to Texas simply shifts the burden of  
9 inconvenience from defendants to plaintiffs.

10 If the transfer would merely shift the burden of  
11 inconvenience to the plaintiffs, the transfer should not be  
12 allowed. Van Dusen, 376 U.S. at 645-46. Similarly, "Where the  
13 balance of convenience is in equipoise, plaintiff's choice of  
14 forum will control." Bastille Properties, Inc. v. Hometels of  
15 America, Inc. (S.D.N.Y. 1979) 476 F.Supp. 175, 182; Motown Record  
16 Corp. v. Mary Jane Girls, Inc. (S.D.N.Y. 1987) 660 F.Supp. 174,  
17 175 (where equities roughly balance, plaintiffs' choice should not  
18 be disturbed).

19 In the instant case, defendants have not made the  
20 "strong showing" required to justify a transfer order. Rather,  
21 the parties are in a roughly equal position. Moreover, the public  
22 interest is adversely affected by the transfer order because the  
23 order rewards defendants for insuring the unavailability of  
24 material witnesses.

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1 **IV. CONCLUSION**

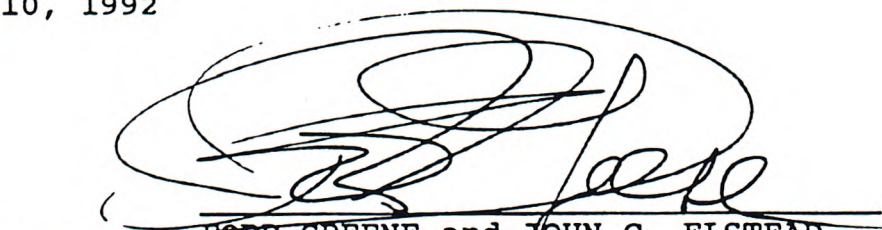
2  
3 The Court has erred.

4  
5 It decided a motion when there was a pending recusal  
6 motion.

7  
8 It mistakenly judged that the tort claims at issue did  
9 not take place in California when for six years plaintiffs were  
10 subjected to defendants' tortious conduct in California. It  
11 failed to even address plaintiffs' argument that transfer would  
12 deprive them of material witnesses. It failed to address  
13 plaintiffs' argument that the cost of litigation would be  
14 prohibitive. It misconstrued plaintiffs' argument that it should  
15 retain the case because it was most familiar with both the case  
16 and the California law applicable to the intentional torts alleged  
17 in the complaint and which have survived three summary judgment  
18 assaults intact.

19  
20 Based upon the foregoing, plaintiffs respectfully submit  
21 that their motion for reconsideration should be granted.

22  
23 DATED: September 10, 1992

24  
25  
26   
27 FORD GREENE and JOHN C. ELSTEAD  
28 Attorneys for Plaintiffs  
VICKI J. AZNARAN and RICHARD N.  
AZNARAN

DECLARATION OF RICHARD N. AZNARAN

RICHARD N. AZNARAN declares:

1. I am the plaintiff in the above action and submit the following testimony of my own personal knowledge. If called upon to do so I would testify to the same in open court.

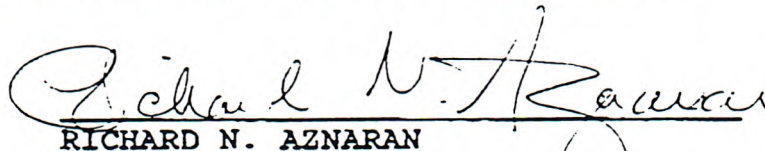
2. I am the former Chief of Security, Worldwide, for the Scientology Organization. As such I was and also am aware that defendants have a policy whereby its members are not to cooperate in litigation or to appear as witnesses. I was and also am aware that high-ranking Scientologists such as Howard Schomer, Laurel Sullivan, Gerald Armstrong and others having been bought off and signed settlement agreements not to testify in the absence of compulsion and to avoid service of process. Part of my job as Chief of Security was to monitor the aforesaid individuals, and others, including Peter Gillham, Jr., Jeff Shervell, John Nelson, David Mayo and Diane Reisdorff, to make sure that they did not have contact with any persons I knew to be adverse to Scientology. Specifically, we took every effort, to make sure former high-ranking Scientologists did not get into the hands of the "enemy" and end up testifying against Scientology in court.

3. I chose Los Angeles as the venue for my lawsuit against defendants because I knew that most of my witnesses lived there and that in the absence of compulsory process, they would not be willing to testify on my behalf either because they were controlled by or afraid of Scientology.

4. I was and am also aware that defendants have a policy of intimidating ex-members in an effort to prevent them from testifying adversely to defendants in Court.

1           5. I have been advised by one of my attorneys, John  
2 Elstead, that it will cost between \$50,000.00 and \$80,000.00 to  
3 bring witnesses to Texas for trial. I do not have the money to be  
4 able to pay to transport my lawyers and witnesses to Texas to try  
5 my case against defendants. Were I to attempt to pay the expense  
6 for such transportation, it would financially ruin me. For the  
7 court to transfer the case to Texas is, in my mind, the equivalent  
8 of issuing an order that my case be dismissed.

9           I declare under penalty of perjury pursuant to the laws of  
10 the United States that the foregoing is true and correct and that  
11 this declaration is executed at Dallas, Texas, on September 9,  
12 1992.

13   
14 RICHARD N. AZNARAN  
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DECLARATION OF VICKI J. AZNARAN

VICKI J. AZNARAN declares:

1. I am the plaintiff in the above action and submit the following testimony of my own personal knowledge. If called upon to do so I would testify to the same in open court.

2. I am the former President of Religious Technology Center, one of the defendants herein. As such I was and also am aware that defendants have a policy whereby its members are not to cooperate in litigation or to appear as witnesses. I was and also am aware that high-ranking Scientologists such as Howard Schomer, Laurel Sullivan, Gerald Armstrong and others having been bought off and signed settlement agreements not to testify in the absence of compulsion and to avoid service of process.

3. I chose Los Angeles as the venue for my lawsuit against defendants because I knew that most of my witnesses lived there and that in the absence of compulsory process, they would not be willing to testify on my behalf either because they were controlled by or afraid of Scientology.

4. I was and am also aware that defendants have a policy of intimidating ex-members in an effort to prevent them from testifying adversely to defendants in Court. For example, on or about August 10, 1992, I received a telephone call from my witness Vaughn Young. Mr. Young advised me that defense counsel Kendrick Moxon had called him and in a threatening tone demanded "What do you think you are doing?" in allowing himself to be listed as a plaintiffs' witness. Mr. Young said that he hung up on Moxon and that Moxon called him back immediately and berated him some more. Then, Mr. Young told me that he could not travel to Texas to

1 testify on my behalf. Vaughn Young was L. Ron Hubbard's  
2 biographer and will testify regarding the misrepresentations that  
3 caused me to affiliate with Scientology. He also is a former  
4 member of the Guardian's Office, a department which effectively  
5 was Scientology's police. Vaughn Young can testify as to the  
6 practices employed at the Happy Valley incarceration camp, the  
7 practices of the Fair Game Policy, working at defendant AUTHOR  
8 SERVICES, INC. (ASI) with me, and to the fraud perpetrated by L.  
9 Ron Hubbard on the public and on me.

10 5. There are additional witnesses in the Los Angeles area  
11 whom I would call at trial were trial to be held in Los Angeles,  
12 but whom I could not afford to bring to Texas to testify on my  
13 behalf. Said witnesses include, but are not limited to, the  
14 following:

15 a. Peter Gillham, Jr.: He would testify regarding the way  
16 that Scientology corporations function and how the money was  
17 transferred from Scientology corporations to L. Ron Hubbard. His  
18 testimony is essential to link up defendant corporate entities and  
19 the Scientology power structure manifested through the Sea  
20 Organization which controlled and still controls all Scientology  
21 corporations.

22 b. Marion Dendul: She was an executive at defendant  
23 ASI and was aware of the Scientology-compelled separation between  
24 my husband and me in 1981 and then again in 1985-1987. She lives  
25 in Los Angeles.

26 c. Edith Buchelle: She and worked together frequently  
27 in 1981 in both the Guardian's Office (GO) and in its replacement,  
28 the Office of Special Affairs, and was aware of Scientology's use

1 of "dirty tricks" in the application of its Fair Game Policy. She  
2 lives in Los Angeles.

3 d. Heidei Stahli: She was a former ASI executive who  
4 also was my auditor. She would provide testimony regarding the  
5 Scientology-compelled separation between my husband and me in  
6 1985-1986. She lives in Los Angeles.

7 e. Paul Schroer: He was in the Rehabilitation Project  
8 Force (RPF) with me at "Happy Valley" and can testify about the  
9 conditions there and my imprisonment therein. He can also testify  
10 about the Scientology-compelled separation between my husband and  
11 me in 1985-1987. He lives in Los Angeles.

12 f. Allison Andrus: She worked with me in defendant  
13 RELIGIOUS TECHNOLOGY CENTER (RTC), was familiar with RPF and knew  
14 of the Scientology-compelled separation between my husband and me  
15 in 1985-1987. She lives in Los Angeles.

16 g. Brian Andrus: He was in the GO and was aware of  
17 the Scientology-compelled separation between my husband and me in  
18 1985-1987. He also worked in RTC and knew of my incarceration in  
19 the RPF. He lives in Los Angeles.

20 h. Sandy Wilhere: She will testify regarding my being  
21 sentenced to the RPF as an act of retaliation by David Miscavige.  
22 She lives in Los Angeles.

23 i. Ken Rose: He will testify regarding my being  
24 sentenced to the RPF as an act of retaliation by David Miscavige.  
25 He lives in Los Angeles.

26 j. Greg Wilhere: He was present when I was sentenced  
27 to the RPF. He lives in Los Angeles.

28 k. Paul Crabtree: He was in the RPF with me and would

1 testify about the imprisonment therein. He lives in Los Angeles.

2 l. Kate Conley: She was in the RPF with me and would  
3 testify about the imprisonment therein. She lives in Los Angeles.

4 m. Mark Fisher: He worked for David Miscavige and  
5 transported me to the RPF in Happy Valley.

6 n. Ken Lipton: He was in the Sea Organization's  
7 Commodore's Messenger Organization and would testify regarding the  
8 Aznarans' loss of consortium (separation) in 1985-1987 and about  
9 both Vicki Aznaran and Richard Aznaran being held in the RPF. He  
10 lives in Los Angeles.

11 o. Mickey Lipton: She was in the Sea Organization's  
12 Commodore's Messenger Organization, knew me since 1981 in  
13 Scientology and would testify regarding my experiences and her  
14 observations of my mental state in Scientology. She lives in Los  
15 Angeles.

16 p. Suzette Hubbard: She was at Gilman Hot Springs and  
17 would testify about the RPF at Happy Valley and my being sentenced  
18 to the RPF. She lives in Los Angeles.

19 q. Mark Jones: He was a Scientologist for many  
20 years and would testify regarding the implementation of the Fair  
21 Game Policy in the form of dirty tricks that were used to  
22 retaliate against people. He lives in Los Angeles.

23 r. Ellen Jones: She would testify regarding the  
24 implementation of the Fair Game Policy in the form of dirty tricks  
25 that were used to retaliate against people. She lives in Los  
26 Angeles.

27 s. David Mayo: He was in the Sea Organization and at  
28 Gilman Hot Springs and Happy Valley and would testify regarding

1 the implementation of the Fair Game Policy in the form of dirty  
2 tricks that were used to retaliate against people. He lives in  
3 Los Angeles.

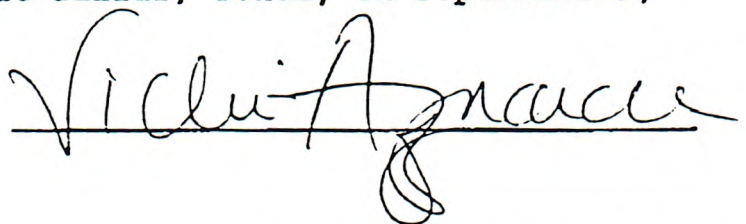
4 t. Julie Mayo: She was in the Sea Organization and at  
5 Gilman Hot Springs and Happy Valley and would testify regarding  
6 the implementation of the Fair Game Policy in the form of dirty  
7 tricks that were used to retaliate against people. She lives in  
8 Los Angeles.

9 u. Diana Reisdorf: She was in the Commordore's  
10 Messenger Organization and at Gilman Hot Springs and Happy Valley  
11 and would testify regarding the implementation of the Fair Game  
12 Policy in the form of dirty tricks that were used to retaliate  
13 against people. She lives in Los Angeles.

14 v. John Nelson: He was in the Commordore's Messenger  
15 Organization and at Gilman Hot Springs and Happy Valley and would  
16 testify regarding the implementation of the Fair Game Policy in  
17 the form of dirty tricks that were used to retaliate against  
18 people. He lives in Los Angeles.

19 6. I do not have the money to be able to pay to transport  
20 my lawyers and witnesses to Texas to try my case against  
21 defendants. For the court to transfer the case to Texas is, in my  
22 mind, the equivalent of issuing an order that my case be  
23 dismissed.

24 I declare under penalty of perjury pursuant to the laws of  
25 the United States that the foregoing is true and correct and that  
26 this declaration is executed at Dallas, Texas, on September 9,  
27 1992.

28 



1 DECLARATION OF JOHN CLIFTON ELSTEAD

2 JOHN CLIFTON ELSTEAD declares:

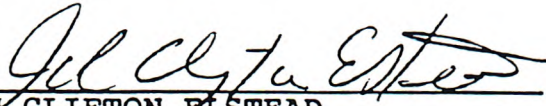
3 1. I am an attorney licensed to practice law in the  
4 courts of the State of California and am the attorney of record  
5 for Vicki J. Aznaran and Richard N. Aznaran, plaintiffs herein.

6 2. Based upon my knowledge of this case I reasonably  
7 estimate that the costs of transporting witnesses from California  
8 to Texas for trial of this matter will cost between \$50,000.00  
9 and \$80,000.00. I have tried a significant number of cases  
10 outside of my home state of California and, consequently, speak  
11 with experience as to such costs. These costs include round-  
12 trip airfares, meals and lodging, and other expenses. Lodging is  
13 particularly excessive because witnesses must be brought and kept  
14 in Texas for many days so that one witness after the other can be  
15 called to avoid delays in the trial.

16 3. Also, based upon my knowledge of the case, we are  
17 talking about transporting in excess of 30 witnesses, not  
18 including expert witnesses. As to the experts, they are all  
19 residents of California and were retained in anticipation of  
20 trial in California. Given the high cost of expert witness  
21 testimony, it is reasonably estimated that the cost of  
22 transporting the experts to Texas for trial will exceed  
23 \$20,000.00.

24 I declare under penalty of perjury under the laws of  
25 the United States that the foregoing is true and correct.

26 Executed on September 9, 1992, at Pleasanton,  
27 California.

28   
JOHN CLIFTON ELSTEAD  
Attorney for Plaintiffs

DECLARATION OF FORD GREENE

FORD GREENE declares:

1. I am an attorney licensed to practice law in the Courts of the State of California and am the attorney of record for Vicki J. Aznaran and Richard N. Aznaran, plaintiffs herein.

2. On September 5, 1992, I spoke with Howard Schomer on the telephone regarding whether he would be willing to be flown to Texas to testify in the trial of the above-referenced case. He told me that he would not.

3. I am the attorney for Gerald Armstrong in the action entitled Church of Scientology International v. Gerald Armstrong, Los Angeles Superior Court, Case No. BC 052395. In that case CHURCH OF SCIENTOLOGY INTERNATIONAL, defendant herein, is presently suing Armstrong for breach of contract and injunctive relief because he filed declarations in this case, including the following: Declaration of Gerald Armstrong Regarding Alleged "Taint" Of Joseph A. Yanny, Esquire, filed herein on September 4, 1991, at p. 20-21.

4. Attached hereto are true and correct copies of excerpts of the following documents:

Exhibit 1: Responses of Defendant Religious Technology Center To Plaintiffs' Interrogatories;

Exhibit 2: Responses of Defendant Church of Scientology International To Plaintiffs' Interrogatories;

Exhibit 3: Responses of Defendant Author Services, Inc. To Plaintiffs' Interrogatories.

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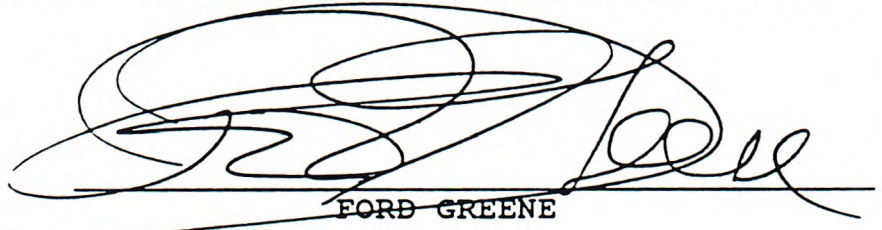
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1           5.     Also attached hereto as Exhibit 4 is a true and correct  
2 copy of the decision in Church of Spiritual Technology v. United  
3 States (U.S. Claims Court, No. 581-88T, June 29, 1992) Bureau of  
4 National Affairs Tax decisions and Rulings (No. 131), July 8,  
5 1992, at K-7.

6  
7           Under penalty of perjury pursuant to the laws of the United  
8 States I hereby declare that the foregoing is true and correct  
9 according to my first-hand knowledge, except those matters stated  
10 to be on information and belief, and as to those matters, I  
11 believe them to be true.

12           Executed on September 10, 1992, at San Anselmo, California

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HUB LAW OFFICES

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8 Laurie Bartilson  
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 Suite 2000  
 10 Hollywood, CA 90028  
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11 Attorneys for Defendant  
 12 RELIGIOUS TECHNOLOGY CENTER

13  
 14 UNITED STATES DISTRICT COURT

15 CENTRAL DISTRICT OF CALIFORNIA

16	VICKI J. AZNARAN and	)	CASE No. CV 88-1786 JMI (Ex)
	RICHARD N. AZNARAN,	)	
17		)	RESPONSES OF DEFENDANT RELIGIOUS
	Plaintiffs,	)	TECHNOLOGY CENTER TO PLAINTIFFS'
18	v.	)	FIRST SET OF INTERROGATORIES
		)	
19	CHURCH OF SCIENTOLOGY OF	)	
	CALIFORNIA, et al.,	)	
20		)	
	Defendants.	)	
21	<hr/>		
22	RELIGIOUS TECHNOLOGY	)	
	CENTER, et al.,	)	
23	Counterclaimants,	)	
24	v.	)	
25	VICKI J. AZNARAN and	)	
26	RICHARD N. AZNARAN,	)	
	Counterdefendants.	)	
27	<hr/>		

1           3. This interrogatory seeks to invade the attorney-  
2 client privilege and information protected by the attorney  
3 work-product doctrine.

4 INTERROGATORY NO. 18

5           Please identify each business address utilized by Religious  
6 Technology Center from its inception to the present.

7 RESPONSE TO INTERROGATORY NO. 18:

8           RTC objects to this interrogatory on the following  
9 grounds:

10           1. This interrogatory exceeds the permissible scope of  
11 discovery in that it seeks information which is not relevant to  
12 the subject matter of the litigation and is not reasonably  
13 calculated to lead to the discovery of admissible evidence.

14           2. This interrogatory is vague, ambiguous and  
15 unintelligible as framed, as to the term "utilized."

16           As defendant interprets the term "utilize," and without  
17 waiving the foregoing objections, RTC responds that its present  
18 corporate address is 1710 Ivar Avenue, Hollywood, CA 90028, and  
19 former address was 4751 Fountain Avenue, Los Angeles, CA 90029.

20 INTERROGATORY NO. 19

21           Identify each person whom you expect to call as an expert  
22 witness at trial and, as to each expert:

23           A. State his or her qualifications;

24           B. State the subject matter on which he or she is expected  
25 to testify;

26           C. State the substance of the facts and opinions on which  
27 he or she is expected to testify;

28           D. Provide a summary of the grounds for each opinion;

1 1. The interrogatory as stated is overbroad, burdensome  
2 and unduly oppressive.

3 2. This interrogatory seeks to invade the attorney-  
4 client privilege and information protected by the attorney  
5 work-product doctrine.

6 3. The interrogatory seeks information which is in the  
7 knowledge of plaintiffs and which plaintiffs have refused to  
8 divulge on the basis of a fraudulently asserted attorney-client  
9 privilege.

10 Dated: July 30, 1990

WILLIAM T. DRESCHER  
ATTORNEY AT LAW

BOWLES & MOXON

11  
12  
13 By:   
14 Laurie J. Bartilson

15 COOLEY, MANION, MOORE  
16 & JONES, P.C.  
Earle C. Cooley

17 BOWLES & MOXON  
Kendrick L. Moxon

18 Attorneys for Defendant  
19 RELIGIOUS TECHNOLOGY CENTER

PROOF OF SERVICE

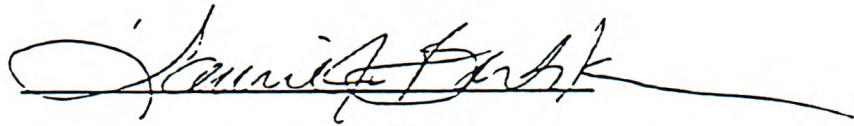
STATE OF CALIFORNIA     )  
                                  )    ss.  
COUNTY OF LOS ANGELES   )

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On July 30, 1990, I caused to be served the foregoing document described as RESPONSES OF DEFENDANT RELIGIOUS TECHNOLOGY CENTER TO PLAINTIFFS' FIRST SET OF INTERROGATORIES on interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Hollywood, California, addressed as follows:

Ford Greene  
711 Sir Francis Drake Blvd.  
San Anselmo, CA 94960-1949

Executed on July 30, 1990 at Hollywood, California.







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HUB LAW OFFICES

1 Eric Lieberman  
2 RABINOWITZ, BOUDIN, STANDARD,  
3 KRINSKY & LIEBERMAN, P.C.  
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6 (212) 254-1111

4 Kendrick L. Moxon  
5 BOWLES & MOXON  
6 6255 Sunset Blvd.  
7 Suite 2000  
8 Hollywood, CA 90028  
9 (213) 661-4030

8 Attorneys for Defendant  
9 CHURCH OF SCIENTOLOGY INTERNATIONAL

10 UNITED STATES DISTRICT COURT  
11  
12 CENTRAL DISTRICT OF CALIFORNIA

14 VICKI J. AZNARAN and ) CASE No. CV 88-1786 JMI(Ex)  
15 RICHARD N. AZNARAN, )  
16 Plaintiffs, ) RESPONSES OF DEFENDANT CHURCH OF  
17 v. ) SCIENTOLOGY INTERNATIONAL TO  
18 CHURCH OF SCIENTOLOGY OF ) PLAINTIFFS' FIRST SET OF  
19 CALIFORNIA, et al., ) INTERROGATORIES  
20 Defendants. )  
21 RELIGIOUS TECHNOLOGY )  
22 CENTER, et al., )  
23 Counterclaimants, )  
24 v. )  
25 VICKI J. AZNARAN and )  
26 RICHARD N. AZNARAN, )  
27 Counterdefendants. )  
28

1 grounds:

2 1. The interrogatory as stated is overbroad, burdensome  
3 and unduly oppressive.

4 2. This interrogatory exceeds the permissible scope of  
5 discovery in that it seeks information which is not relevant to  
6 the subject matter of the litigation and is not reasonably  
7 calculated to lead to the discovery of admissible evidence.

8 3. This interrogatory seeks to invade the attorney-  
9 client privilege and information protected by the attorney  
10 work-product doctrine.

11 INTERROGATORY NO. 18

12 Please identify each business address utilized by Church of  
13 Scientology International from its inception to the present.

14 RESPONSE TO INTERROGATORY NO. 18:

15 CSI objects to this interrogatory on the following  
16 grounds:

17 1. This interrogatory exceeds the permissible scope of  
18 discovery in that it seeks information which is not relevant to  
19 the subject matter of the litigation and is not reasonably  
20 calculated to lead to the discovery of admissible evidence.

21 2. This interrogatory is vague, ambiguous and  
22 unintelligible as framed, as to the term "utilized."

23 As defendant interprets the term "utilize," and without  
24 waiving the foregoing objections, CSI responds that its present  
25 corporate address is 1710 Ivar Avenue, Hollywood, CA 90028, and  
26 former address was 4751 Fountain Avenue, Los Angeles, CA 90029.

27 INTERROGATORY NO. 19

28 Identify each person whom you expect to call as an expert

1 Identify each fact upon which you base your allegation that  
2 plaintiff Vicki Aznaran owed a fiduciary duty to you, breached a  
3 fiduciary duty to you and identify each and every person having  
4 knowledge of each such fact.

5 RESPONSE TO INTERROGATORY NO. 20:

6 CSI objects to this interrogatory on the following  
7 grounds:

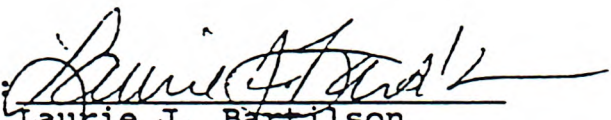
8 1. The interrogatory as stated is overbroad, burdensome  
9 and unduly oppressive.

10 2. This interrogatory seeks to invade the attorney-  
11 client privilege and information protected by the attorney  
12 work-product doctrine.

13 3. The interrogatory seeks information which is in the  
14 knowledge of plaintiffs and which plaintiffs have refused to  
15 divulge on the basis of a fraudulently asserted attorney-client  
16 privilege.

17 Dated: July 30, 1990

BOWLES & MOXON

18  
19 By:   
20 Laurie J. Bartilson

21 RABINOWITZ, BOUDIN, STANDARD,  
22 KRINSKY, AND LIEBERMAN

23 Attorneys for Defendant  
24 CHURCH OF SCIENTOLOGY  
INTERNATIONAL

PROOF OF SERVICE


STATE OF CALIFORNIA     )  
                                  )     ss.  
COUNTY OF LOS ANGELES    )

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On July 30, 1990, I caused to be served the foregoing document described as RESPONSES OF DEFENDANT CHURCH OF SCIENTOLOGY INTERNATIONAL TO PLAINTIFFS' FIRST SET OF INTERROGATORIES on interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Hollywood, California, addressed as follows:

Ford Greene  
711 Sir Francis Drake Blvd.  
San Anselmo, CA 94960-1949

Executed on July 30, 1990 at Hollywood, California.





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Lawrence E. Heller  
TURNER, GERSTENFELD, WILK & TIGERMAN  
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Suite 510  
Beverly Hills, CA 90211  
(213) 657-3100

Kendrick L. Moxon  
Laurie J. Bartilson  
BOWLES & MOXON  
6255 Sunset Blvd.  
Suite 2000  
Los Angeles, CA 90028

Attorneys for Defendant  
AUTHOR SERVICES, INC.

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AUG 02 1993

HUB LAW OFFICES

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

VICKI J. AZNARAN and	)	CASE No. CV 88-1786 JMI(Ex)
RICHARD N. AZNARAN,	)	
	)	RESPONSES OF DEFENDANT AUTHOR
Plaintiffs,	)	SERVICES, INC. TO PLAINTIFFS'
v.	)	FIRST SET OF INTERROGATORIES
	)	
CHURCH OF SCIENTOLOGY OF	)	
CALIFORNIA, et al.,	)	
	)	
Defendants.	)	
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RELIGIOUS TECHNOLOGY	)	
CENTER, et al.,	)	
	)	
Counterclaimants,	)	
	)	
v.	)	
	)	
VICKI J. AZNARAN and	)	
RICHARD N. AZNARAN,	)	
	)	
Counterdefendants.	)	
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Defendant and counter-claimant AUTHOR SERVICES, INC.

("ASI") hereby responds to plaintiffs' First Set of

1 discovery in that it seeks information which is not relevant to  
2 the subject matter of the litigation and is not reasonably  
3 calculated to lead to the discovery of admissible evidence.

4 3. This interrogatory seeks to invade the attorney-  
5 client privilege and information protected by the attorney  
6 work-product doctrine.

7 INTERROGATORY NO. 18

8 Please identify each business address utilized by Author  
9 Services, Inc. from its inception to the present.

10 RESPONSE TO INTERROGATORY NO. 18:

11 ASI objects to this interrogatory on the following  
12 grounds:

13 1. This interrogatory exceeds the permissible scope of  
14 discovery in that it seeks information which is not relevant to  
15 the subject matter of the litigation and is not reasonably  
16 calculated to lead to the discovery of admissible evidence.

17 2. This interrogatory is vague, ambiguous and  
18 unintelligible as framed, as to the term "utilized."

19 As defendant interprets the term "utilize," and without  
20 waiving the foregoing objections, ASI responds that its  
21 present corporate address is 7051 Hollywood Blvd., Suite 400,  
22 Hollywood, California 90028. Its former corporate addresses are  
23 1717 Highland Ave., Suite 405, Hollywood, California 90028, and  
24 6464 Sunset Blvd., Suite 900, Hollywood, California 90028.

25 INTERROGATORY NO. 19

26 Identify each person whom you expect to call as an expert  
27 witness at trial and, as to each expert:

28 A. State his or her qualifications;



1 knowledge of each such fact.

2 RESPONSE TO INTERROGATORY NO. 20:

3 ASI objects to this interrogatory on the following grounds:

4 1. ASI has not alleged any of the matters referred to in  
5 the interrogatory and is therefore unable to respond.

6 2. This interrogatory called for a legal conclusion.

7 Dated: July 30, 1990

BOWLES & MOXON

8

9

By: 

~~Laurie J. Bartilson~~

10

11

Lawrence E. Heller  
TURNER, GERSTENFELD, WILK  
& TIGERMAN

12

13

Attorneys for Defendant  
AUTHOR SERVICES, INC.

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PROOF OF SERVICE

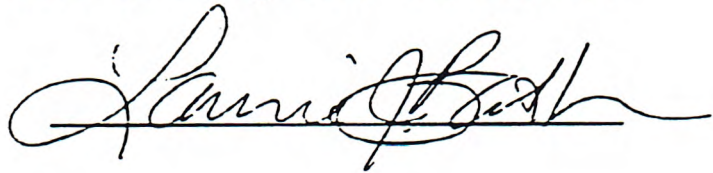
STATE OF CALIFORNIA     )  
                                  )     ss.  
COUNTY OF LOS ANGELES   )

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On July 30, 1990, I caused to be served the foregoing document described as RESPONSES OF DEFENDANT AUTHOR SERVICES INC. TO PLAINTIFFS' FIRST SET OF INTERROGATORIES on interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Hollywood, California, addressed as follows:

Ford Greene  
711 Sir Francis Drake Blvd.  
San Anselmo, CA 94960-1949

Executed on July 30, 1990 at Hollywood, California.





event of X's insolvency. The participants will have no preferred claim on, or beneficial ownership interest in, any trust funds before these are distributed to a participant or beneficiary, and any rights created under the plan and trust are mere unsecured contractual rights of the participants against X.

The trust's assets cannot revert to X or be diverted in any other way before the trust has made all payments to participants pursuant to the plan. Benefits under the trust may not be anticipated, assigned, or alienated, and are not subject to attachment, garnishment, levy, execution, or other legal or equitable process by the trust participants. Their only rights with are those of general creditors of X.

X's directors and chief executive officer are required to inform the trustee if X becomes insolvent. When the trustee obtains actual knowledge of X's insolvency, the trustee must discontinue paying benefits to the trust beneficiaries, and must hold the trust assets for the benefit of X's general creditors. The trustee must deliver any undistributed income and principal to satisfy the claims of X's general creditors, as directed by a court of competent jurisdiction.

**Grantor trust rules apply:** The IRS classified the trust as a trust within the meaning of Reg. Section 301.7701-4(a). Because trust income will be used to satisfy X's legal obligations, X as grantor will be treated as the owner of the trust under Section 677 and Reg. Section 1.677(a)-1(d). Pursuant to Section 671, X must include in the computation of its taxable income and credits the items of income, deduction, and credit attributable to the trust.

**No Section 83 property transfer:** The IRS also ruled that the establishment of the trust and the trust's accumulation of income will not constitute transfers of property to the participants within the meaning of Section 83 and Reg. Section 1.83-3(e) and will not constitute a contribution to a non-exempt employee's trust under Section 402(b).

**Economic benefit doctrine:** The IRS found that the plans and trust arrangements will not result in constructive receipt by the participants, pursuant to Rev. Ruls. 69-650, 69-649, and 60-31. It explained that, under the economic benefit doctrine, an employee has current income when assets are unconditionally and irrevocably paid into a fund or trust for use for the employee's sole benefit. Here, the IRS cited *Sproull v. Commissioner*, 16 TC 244 (1951), *aff'd per curiam*, 194 F2d 541 (CA 6 1952); and Rev. Ruls. 72-25, 68-99, and 60-31. The IRS concluded that the establishment and funding of the trust and its accumulation of income will not result in current income to participants under the economic benefit doctrine.

**Employer's deduction:** Finally, citing Reg. Section 1.404(a)-12(b)(2), the IRS also ruled that X will be able to deduct, pursuant to Section 404(a)(5), amounts paid to participants and beneficiaries under the plan and trust in the years when paid the cash method participants must include them in income, provided that the requirements of Sections 162(a)(1) and 404(a)(5) are met.

*establish that it was operated exclusively for exempt purposes and therefore does not qualify as an exempt organization. (US Cls Ct, Church of Spiritual Technology v. U.S., No. 581-88T, 6/29/92)*

**Facts:** The Church of Spiritual Technology (CST) applied for recognition of tax-exempt status under Section 501(c)(3) as a religious organization. The Internal Revenue Service denied CST's application in July 1988. CST is appealing that decision.

IRS determined that CST was operated for the benefit of the private interests of the founder of Scientology, L. Ron Hubbard, up until his death, and that subsequently it was operated for the substantial non-exempt purpose of aiding other Scientology organizations in the marketing of Scientology services and publications.

CST was founded in 1982 as a non-profit corporation under California law. Its stated purpose was to "espouse, propagate, practice, ensure and maintain the purity and integrity of the religion of Scientology." One of CST's specific duties, unique among Scientology churches, is to create and maintain an archive of scriptures for future generations. The other stated purpose of CST was to provide Hubbard, then still living, with a depository for the bulk of his testamentary estate.

In 1983, CST received a start-up grant of \$17.95 million from another branch of the Scientology organization. In addition, it has received annual grants ranging from \$623,000 to \$2.8 million from still another Scientology branch.

CST is in the process of creating an archive of Scientology scriptures, consisting of the written and spoken word of Hubbard, as well as films concerning religious training and the administration of Scientology services.

CST states that it does not participate in any of the hierarchical Scientology church's financial accounts. CST, however, currently gets all its operating funds from other Scientology churches, with which CST is closely linked by virtue of Hubbard's will and because of overlapping personnel, and courts have found commercialism and financial inurement throughout the Scientology organization.

**Holding:** The court concludes that CST has not carried its burden of establishing that IRS' decision was incorrect. CST has not demonstrated that it is operated exclusively for tax-exempt purposes. The administrative record persuades the court that CST was founded for the primary purpose of gaining tax-exempt status to serve the financial goal of other, non-exempt entities, and that CST's archiving activities are secondary to its obtaining a tax exemption and would not of themselves qualify CST as a tax-exempt organization under Section 501(c)(3).

Examining CST's application in light of other Scientology activities and organizations, the court finds a strong link between CST and other Scientology organizations. CST was created to serve Hubbard as a personal estate-planning device and to support the work of Scientology. CST would not exist without the rest of Scientology. Its activities and purpose must, therefore, be considered in light of its connection to Scientology as a whole.

Looking beyond the flurry of archiving activity, the court finds that the very existence of CST was brought about primarily to serve the non-exempt ends of other Scientology organizations. The court finds a substantial non-exempt purpose of Scientology, noting Scientology's preoccupation with finances. CST's overriding rationale is to be a tax-exempt organization and thus to provide shelter to the income generated by the rest of the Scientology organiza-

## COURT DECISIONS

### EXEMPT ORGANIZATIONS—SCIENTOLOGY-RELATED ORGANIZATION FAILS TO ESTABLISH QUALIFIED STATUS

• *Scientology-related organization, formed to create and keep an archive of Scientology scriptures, fails to*

tion. The court also cites CST's lack of cooperation with IRS in the administrative process.

Full Text

In the United States Claims Court

No. 581-88T

(Reissued June 29, 1992)

CHURCH OF SPIRITUAL TECHNOLOGY

Plaintiff,

v.

Tax, Exempt Organizations.

THE UNITED STATES

Defendant.

Monique E. Yingling, Washington D.C., for plaintiff.  
Thomas C. Spring, of counsel.

W. C. Rapp, with whom were Assistant Attorney General  
Shirley D. Peterson and David Gustafson, for defendant.

OPINION

BRUGGINK, Judge.

This is an appeal from a decision rendered by the Commissioner of the Internal Revenue Service ("IRS"). The Church of Spiritual Technology ("CST"),<sup>1</sup> plaintiff, applied for tax-exempt status under I.R.C. §501(c)(3) (1982) as a religious organization.<sup>2</sup> On July 8, 1988, the IRS issued its final adverse ruling denying CST's bid for tax exemption. CST appealed that administrative decision to the court pursuant to I.R.C. §7428(a), resulting in the instant case.

The IRS denied CST's application because the organization failed to establish that it was operated exclusively for exempt purposes. The IRS found that CST was operated for the benefit of the private interests of the founder of the religion of Scientology, L. Ron Hubbard, up until his death, and that subsequently it was operated for the substantial non-exempt purpose of aiding other Scientology organizations in their marketing of Scientology services and publications.

After consideration of the issues presented, and for the reasons that follow, the court concludes that the CST has not carried its burden of establishing that the Commissioner's decision was incorrect. It has not demonstrated that it is operated exclusively for tax-exempt purposes. The administrative record persuades the court that CST was founded for the primary purpose of gaining tax-exempt status to serve the financial goals of other, non-exempt entities, and that CST's archiving activities are secondary to its obtaining a tax exemption and would not of themselves qualify CST as a tax-exempt organization under I.R.C. §501(c)(3).

I. FACTS

A. History and Tenets of Scientology

In 1950, L. Ron Hubbard ("LRH") founded the church of Scientology based on a new science he had created that he termed "Dianetics." The first Scientology church was incorporated in 1954. Since its founding, Scientology has grown and expanded into a complex hierarchy of related churches and organizations. Each entity has a specific place in the ecclesiastical scheme of Scientology as a whole. LRH died in 1986, but his writings and other recorded words are still considered to be scripture by adherents of Scientology.

Scientology is based on a belief that man is an immortal spirit who has lived through previous lifetimes. Plaintiff

describes the goal of Scientology as "a civilization without insanity, without criminals and without war, where the able can prosper and honest beings can have rights, and where Man is free to rise to greater heights." Defendant's Proposed Finding of Fact ("DPFF") 6.

Scientology hopes to achieve this goal through its sacrament of "auditing." Through this process the person or "pre-clear" is "cleared" of problems and behaviors caused by his "reactive mind." The reactive mind is the term used by Scientologists to describe a force that causes a person to act irrationally or against his own best interest. Scientology seeks to allow a person to overcome his unknowing obedience to the reactive mind, help him to clear himself of its influence, and make him responsible for his actions. When a person becomes clear, he achieves freedom from unwanted burdens, and becomes certain of immortality. The concept of immortality and previous lives is behind Scientologists' desire to preserve the words of LRH for billions of years.

Providing auditing services is the chief function of "Class IV" churches.<sup>4</sup> It is the responsibility of these churches to bring new members into Scientology, and to provide them with basic Scientology services. As a person moves along in the auditing process, he becomes eligible to receive services from the higher level churches. Higher level services must be provided by a church higher up in the hierarchy because they involve the "Advanced Technology" of Scientology. Plaintiff describes this as "[t]he portion of the Scientology scriptures that constitutes the upper levels of spiritual awareness in the Scientology faith." Plaintiff's Proposed Finding of Fact ("PPFF") 8. The Advanced Technology is what might be thought of as the revealed wisdom of Scientology. Access to it is heavily guarded and is granted only to those parishioners who have completed a specified number of auditing courses and progressed to a certain level in Scientology training. Before one is allowed access to Advanced Technology, one must agree not to share it with anyone still in the lower levels of Scientology.

All auditing services, of whatever level, must be purchased for cash by the recipient according to a scale of "fixed donations," or "fixed contributions." Scientology scriptures discuss the "Doctrine of Exchange" or the need to "balance inflow with outflow." Payment for auditing is explained as a requirement of this doctrine. Although characterized by taxpayers as a religious contribution, the Supreme Court has held that payments for Scientology auditing services do not generate a tax deduction for the individual taxpayer.<sup>5</sup>

Scientology scriptures also discuss at length the error of allowing the public to pay on credit, or of selling auditing for less than full price. In Hubbard Communications Office ("HCO") Policy Letter of April 27, 1965, LRH cautions, "The tendency then against which we must guard is covert lowering of prices once set."

B. Organization of Scientology Hierarchy

For reasons discussed below, the court concludes that the Commissioner properly viewed CST's petition in the context of Scientology as a whole. It is necessary, therefore, to describe the wider structure from an organizational standpoint.

Scientology has undergone almost constant corporate metamorphosis since its creation. In order to try to untangle the current structure and put it in proper perspective, we begin with the state of affairs prior to 1981, when the latest reorganization impetus arose. Before 1981, the Church of Scientology of California ("CSC") acted as the mother

church for all of Scientology. It was organized as a non-profit corporation in California, and was responsible for running all aspects of Scientology with the exception of some specialized financial arrangements. It had ultimate ecclesiastical authority, provided all levels of Scientology services, and was the center of management for all other Scientology organizations. CSC was founded in 1954 and was recognized, for a time, as tax-exempt by the IRS. The IRS issued a letter revoking the tax-exempt status of CSC in 1967. Thus began a lengthy investigation of CSC and other affiliated organizations. The IRS issued a notice of deficiency in 1977, CSC appealed this decision to the Tax Court and the matter was tried. Although the Tax Court did not issue its ruling until 1984, *Church of Scientology of California v. Commissioner*, 83 T.C. 381 (1984), *aff'd*, 823 F.2d 1310, (9th Cir. 1987), and *cert. denied*, 486 U.S. 1015 (1988), by 1981, CSC would certainly have realized that its tax-exempt status was in doubt.

In 1981, several high-ranking Scientology officials undertook a Mission Corporate Category Sort-out ("MCCS") to develop a new corporate structure for Scientology. The court does not know exactly what was discussed at the meetings although the meetings were recorded on audiotape. During the administrative process, the IRS requested on at least three occasions that CST produce the tapes. CST refused on the grounds that it did not have access to them, and that the tapes were in any case irrelevant to CST's tax-exempt status. The tapes had been put under a protective order by the Superior Court for the County for Los Angeles in a case involving CSC and a former Scientology employee.<sup>1</sup> The IRS issued a summons to the Clerk of the Los Angeles court to produce the tapes in connection with the investigation of CSC. CSC intervened in the suit asserting that the tapes were protected by the attorney-client privilege. The Ninth Circuit, which heard the case on appeal, reviewed the tapes and held that they contained evidence of intent to defraud the IRS, and thus were not protected by the attorney-client privilege.<sup>2</sup> This decision was issued during the present action. CST still did not produce the tapes claiming the MCCS discussions were abandoned in June of 1981, and that no action was taken with regard to anything the committee discussed.<sup>3</sup>

Nonetheless, shortly after the talks ended in 1981, Scientology underwent a reorganization. The goal of the new structure was for Scientology to "simplify its corporate structure."<sup>4</sup> CSC was broken up and replaced by several new higher level entities. Church of Scientology International ("CSI"), Religious Technology Center ("RTC"), Church of Scientology San Francisco, and Church of Scientology Los Angeles were all products of the reorganization. CSI, RTC and CST, which was created in 1982,<sup>5</sup> are all what the court will refer to as a "management churches."<sup>6</sup> The management churches collect money sent to them from the missions and Class IV churches. CSI became the new mother church of Scientology. It sits at the top of a complex corporate hierarchy. RTC is the entity charged with maintaining doctrinal purity in the church. CSI along with RTC form the top-level ecclesiastical management of Scientology, although there are numerous other churches and other entities that have a role in management, finance or spiritual affairs. The Church of Scientology Flag Service Organization, another of the management churches, delivers the highest level Scientology services, training, and auditing. Ecclesiastical oversight is accomplished by CSI through the Watchdog Committee ("WDC"). This committee is responsible for oversight of the international ecclesiastical management structure of Scientology organizations.

The four Saint Hill "Organizations are the first step down from the management level churches in the Scientology hierarchy. They primarily train auditors. Next are the 141 Class IV Churches which deliver lower and intermediate level church services and are authorized to ordain ministers. Class IV churches are so called because the almost advanced auditors there have progressed to Class IV of auditor training.<sup>7</sup> Class IV churches are subordinate to Continental Liaison Officers ("CLOs"). CLOs answer to the ecclesiastical authority of RTC and CSI.

The base of the church is formed by the Missions of Scientology, of which there are 129. These only provide the lower levels of Scientology services. Missions do not have the authority to ordain ministers. Scientology Missions have no ecclesiastical authority and are under the total control of Scientology Missions International.

The multiple layers of hierarchy thus create two different operational levels. The first is the management churches, which make all organizational decisions. The second is made up of Scientology Missions and the Class IV churches, which deal with the public and deliver Scientology's religious services. It is this second level which the public would perceive as the "church" of Scientology. It carries out the work and fulfills the spiritual purpose discussed in Scientology scriptures. With one exception, all of the 14 Scientology churches that have received tax-exempt status have been this type of local, Class IV church.<sup>8</sup> In contrast to the Class IV churches, these management churches and the original head church, CSC, have often had on-going conflicts with the IRS. Either their tax-exempt status has been revoked, or it has been denied in the first instance.

After carefully examining the record and attempting to understand the nominal corporate structure of Scientology it is apparent to the court that it is something of a *deceptis visus*. Real control is exercised less formally, but more tangibly, through an unincorporated association, the Sea Organization, more commonly referred to as the Sea Org. This group, in the nature of a fraternity or clan began with Scientologists who pledged themselves eternally to Scientology and who accompanied LRH in his sea-going spiritual research in the Mediterranean. In 1967, LRH and other Scientology staff moved onto a yacht, the *Apollo*, "to pursue [LRH's] research of the upper levels of spiritual awareness." LRH and his *Apollo* staff performed Scientology services, managed the Scientology organization, and conducted spiritual research. If LRH could have been compared to Achilles, members of the Sea Org would have been his Myrmidons.

The Sea Org appellation survives in Scientology as a distinction afforded to those Scientologists who have dedicated themselves to serving Scientology for the next billion years. It is described by CST as a way to distinguish Scientologists worthy of great deference and respect. Sea Org members are initiated into the highest levels of Scientology, and bear concomitant responsibilities.

CST staff and officers are required to be members of the Sea Org, which gives CST the distinction of being a Sea Org Church. CSI, RTC, the Flag Service Org (which employs over 900 Sea Org members), the Saint Hill Churches, in short, all high ranking organizations are Sea Org Churches. Being a "Sea Org church" means that the church's function is important enough to Scientology to warrant the attention of a significant number of Sea Org members.

Sea Org rank nominally carries with its no ecclesiastical authority in the sense that Sea Org members still take orders from the ecclesiastical leaders of whichever Scientology organization they join. Upon closer analysis, however, this appears to be a distinction without a difference because

in a Sea Org church the ecclesiastical authority necessarily resides in a Sea Org member.

Furthermore, the Sea Org appears to have considerable financial importance. HCO Policy Letter of 16 June 1969 instructs the Flag Banking Officer International "that his duties include "seeing Ships, Bases and Missions adhere to Sea Org finance policy . . ." (emphasis added). HCO Policy Letter of 20 April 1969 states that due to the "current advent of Sea Org expansion and the recent establishment of an AO-SH [Advanced Organizations-Saint Hill]," the following "firm policy," *inter alia*, is established:

3. Proposals relating to tax, leases, purchase or rental of buildings, long term financial commitments, major changes in the Sea Org financial set-up must be approved by the FBO INT and forwarded to the 2nd Deputy Guardian for Finance WW [World Wide] for final okay before such can be activated.

....

9. In the event of an FBO's failure to do his duty thereby bringing Sea Org monies to risk, the FBO INT has the authority to remove him/her from post. . . .

Sea Org members also exercise considerable control over Scientology money through SOR Management Services, Ltd."

#### C. Testamentary Structure of LRH and the Genesis of CST

LRH died January 1986. As part of his estate planning, he had made three gifts to the Scientology. The first two were *inter vivos*, and a third was testamentary. All three transfers were made, or in the case of the will, designated, in May 1982.

First, LRH gave us of the Advanced Technology and religious marks to RTC." These Scientology religious marks include the terms "Dianetics," "Scientology" and Mr. Hubbard's name, initials and signature. RTC is charged with the duty to oversee lower-ranking churches to ensure they practice Scientology in an orthodox manner. RTC gave CSI a license to use the marks with any Scientology services sold by CSI on condition that CSI recognize RTC as the final word on matters of theological orthodoxy." As required by Mr. Hubbard's gifts, RTC delegates rights to use the Advanced Technology and religious marks to qualified churches in the ecclesiastical hierarchy and then supervises their activities to ensure compliance with Scriptural requirements. In exchange for use of the marks, churches that minister the Advanced Technology pay RTC six percent of the contributions they receive.

LRH's gift to RTC was conditioned on RTC obtaining exemption under I.R.C. §501(c)(3). Thus far, RTC has been found non-exempt by the Commissioner.

CST was created in 1982 in order to receive the second gift. LRH gave CST two options over the marks and technology which he had given to RTC. The first option is to take control of the trademarks on published LRH works and the insignia of various organizations. The second option is over the Advanced Technology. CST has the option, exercisable at its sole discretion, to take over use and authority of the marks from RTC if RTC allows their use in an unorthodox manner.

The third gift was designated in LRH's will of 1982. In it, CST was made the conditional beneficiary of the remainder interest of LRH's personal estate, after certain bequests to family members. The CST bequest included the copyrights to LRH's Scientology works, and certain limited rights over the marks and technology that he had retained at the time of his gift to RTC." It also included all of LRH's non-Scientology works of fiction which continue to produce royalties. The publishing rights and copyrights alone carry with them the

rights to receive the substantial royalties which flow from sales of Scientology books and tapes to the public. These rights will provide CST with a sizable annual income, but only if it achieves tax-exempt status. These assets have not yet been distributed to CST, and they are accumulating income as part of the residual estate, which is being held by a pour-over trust.

#### D. Creation of the Church of Spiritual Technology

As part of LRH's estate planning, CST was founded in 1982 by Lyman Spurlock, Meade Emory, Esq., Leon Misterek, Esq., and Sherman Lenske, Esq. CST was incorporated as a non-profit corporation under California law, and subsequently sought tax-exempt status under the Internal Revenue Code.

CST's Articles of Incorporation describe the purpose of the organization as follows: "The corporation shall espouse, present, propagate, practice, ensure and maintain the purity and integrity of the religion of Scientology . . ." Article III, By-laws of Church of Spiritual Technology.

One of CST's specific duties, unique among Scientology churches, is to create and maintain an archive of scriptures for future generations. It is important to Scientology that its scriptures be preserved for at least the next billion years, in order that future generations have available to them the words of LRH.

The other stated purpose behind CST was to provide LRH, then still living, with a depository for the bulk of his testamentary estate, as explained above. CST's founders wanted to accomplish "[t]he creation of an organization to which Mr. Hubbard would be willing to (and did) bequeath the bulk of his estate, and most importantly his copyrights and patents (which include copyrights to scriptures of the religion and patents on the E-Meter)." "

CST's operating funds thus far have come exclusively from other Scientology management churches. In 1983, CST received what was described as a "one-time start-up grant" of \$17,959,745 from the Church of Scientology Flag Service Organization. In addition, CST has received annual unrestricted grants from RTC ranging from \$623,000 to \$2.8 million.

None of the founders of CST, with the exception of Mr. Spurlock, has any stated religious connection to Scientology. Messrs. Emory, Misterek and Lensket have served as counsel to other Scientology groups, but nothing in the record indicates that any of them has ever been a member of any Scientology organization. Mr. Lenske and two other non-Scientologists have the status of Special Directors of CST. The Articles of Incorporation require that CST have three such Special Directors, and further requires that they be lawyers in order to ensure that CST takes no action to jeopardize its tax-exempt status.

The General Directors and staff of CST are, however, closely linked to other Scientology organizations. The General Directors (the governing body) must be in good standing with the mother church. Staff members are required to be members of the Sea Org. Trustees of the organization are required to have been Scientologists for at least eight years, and must be highly trained in the teachings and technology of Scientology. CST trustees are also required to remain actively involved in giving and receiving Scientology services. They must also participate in at least twelve and one half hours of training per week.

Many of the staff have held positions of authority in other Scientology organizations. Three of the four trustees of CST worked previously for CSC, which was dismantled in 1981. Terri Gamboa is a trustee of CST. She was also at the same

time a Director, the President, and a shareholder of Author Services, Inc. ("ASI"), a Scientology organization. She had formerly been an employee of CSC and of LRH personally. Gregory Wilhere, a trustee of CST, was also formerly an employee of the Founding Church of Scientology, CSC, the Church of Scientology Flag Service Organization and an Australian Scientology organization.

Marion Meisler is a trustee of CST. She was at the same time an employee of ASI, and had previously been employed by CSC, a United Kingdom Scientology organization, and an Australian Scientology organization. Lyman Spurlock is the President of CST, one of its directors, and one of its Trustees. He is also a trustee of RTC. As trustee, Spurlock has authority to elect and remove the directors who run RTC. Thus, Spurlock has the ability to influence RTC's activities. Spurlock was given a general power of attorney by LRH on March 12, 1984, as his personal employee. Dan Przybylski is Vice President of CST and one of its Directors. He has been an employee of CSC, CSI, and RTC. Leo Johnson is Secretary of CST. Previously he had been an employee of CSC. Nancy O'Meara is the Treasurer of CST. She had been successfully employed by various Scientology organizations.

#### E. Activities of the Church of Spiritual Technology

CST is in the process of creating an archive of Scientology scriptures. These consist of the written and spoken word of LRH, as well as films concerning religious training and the administration of Scientology services. In pursuing this goal, CST has outlined its ambitious program of research into archival methods and technology. The purpose of the archive is to ensure that Scientology scriptures are available for billions of years. CST has thus been motivated to research long-term storage and preservation methods and to try to develop new technologies.

In order to complete its archiving mission, CST has purchased several large parcels of land. The organization's administrative offices and main preservation facility are in San Bernardino, California. The existing buildings at the San Bernardino facility were in serious disrepair when purchased. CST was required to pay large sums of money to repair enough of the buildings to house the resident staff. A number of the buildings remain in need of extensive renovations. The 6,000 square foot preservation building was fitted with multiple layers of sheet rock in the ceiling and floor and also with two-hour fire doors to provide a storage space safe from fire. Another storage facility will be built in San Bernardino to house original Scientology scriptures.

CST has purchased other sites for storage facilities. On these it has build or intends to build vaults with specially constructed doors. Currently, CST owns archive sites in Northern California and New Mexico and has plans to acquire additional sites. The site in New Mexico was purchased for \$250,976. The Northern California site cost \$1.5 million. Vault construction in New Mexico was begun in 1986 after the construction of staff living quarters, access roads, and water supply. CST also reinforced the face of the site, installed a hoist, and built a work pad, all of which cost \$260,000. Other construction costs have included \$90,000 to overcome rock fissure impediments encountered in the drilling of the underground tunnels in New Mexico, and \$120,000 for maintenance-free doors to be placed at the mouths of the tunnels. Vault construction at San Bernardino and Northern California is predicted to cost over \$5 million.

To accomplish its archiving mission, CST employs a staff of from 15 to 63 "highly dedicated" Scientologists who are

under the control of CST management. All CST staff members must be trained in Scientology. They live at the preservation site, are paid a subsistence wage, and are required to improve continually their knowledge of Scientology and its teachings. They must spend a specified minimum amount of time each day in Scientology training and teaching pursuits.

CST intends to preserve Scientology scriptures in all of the forms in which they currently exist. Among the technologies that CST is trying to adapt or develop for this purpose are microfilm, color separation for film tape, durable paper and ink for the production of durable masters, digital audio recording, gold and glass laser discs, respooling equipment, soundsciber discs, environmental conditions with respect to creating better storage conditions for archived materials, archival xerography, binding, deacidification of paper used to preserve all written originals, encapsulation in mylar plastics, time capsules filled with inert gas, and construction of vault doors built to be maintenance-free for at least 1,000 years. Because it cannot find equipment and technology that meet its standards, CST has become active in developing new preservation techniques. CST is also involved in developing new E-Meter technology.

The stages of archiving are elaborate. First, CST must obtain the original Scientology work. Originals have been found in the possession of individuals in many different countries. In most cases, the possessors of the documents have donated them to CST for preservation. CST also obtains originals from RTC. CST makes seven copies of each original: two copies on microfilm, and five on acid-free paper. The microfilm copies reportedly have a lifespan of at least 100 years, while CST expects the paper copies to last 1,000 years. These de-acidified paper copies are known as "durable masters." The original is then encapsulated in mylar and placed in a gas-filled time capsule. Some of the durable masters are placed in fire-proof containers and kept in one of the storage facilities, others are kept available for study purposes.

CST also has begun the process of collecting Scientology films written or directed by LRH. In order to preserve them for a longer period of time, CST plans to process the color out of the film. CST has begun the process of restoring some of the original films. When all of the original films have been obtained, CST intends to make copies to store in each of the planned storage facilities. CST predicts that keeping, storing, copying, and processing the films will be a costly undertaking. Particularly with respect to the color-removal process, CST believes archiving the films will cost \$350,000 for the equipment to perform the color-removal process, and \$150,000 actually to remove the color from each of the 42 films. To have this work done by an outside professional laboratory would cost over \$1,000,000.

CST's archiving activities will include preservation of audio tapes of lectures given by LRH. There are reportedly over 6,500 master reels of original recordings to be copied and preserved. Some of the earlier lectures exist on small "Soundsciber" discs which apparently are a challenging medium to preserve. CST has completed the process of making seven magnetic tape copies of each of the master tapes. This has cost \$1.3 million dollars in tape and equipment costs. Of these seven copies, four are archival quality reel to reel tapes destined for storage in the underground storage centers. Two are to be kept for research purposes, and one, of non-archival quality, is to be provided to 651. 651 will then prepare a transcript of the tapes which it will furnish to CST.

Since magnetic tape cannot be preserved as long as CST would like, it has been investigating other media such as digital sound technology. CST now plans to convert its analog



magnetic tape recordings into digital signals which it will then transfer onto special video tape. CST intends to make video tapes of each of the 6,500 master tapes that constitute the library of LRH recorded lectures. This project is expected to cost \$200,000. The production of these video tapes will not add to the life of the recorded words, however. Thus, CST eventually plans to transfer the video tapes onto laser discs. Cold-plated glass discs currently seem to have the longest life of all materials, but a full set of such discs would cost more than \$6 million, which CST considers excessive.

#### F. Financial Structure of Scientology

CST states that it does not participate in any of the hierarchical church's financial accounts. In a literal sense this may be true. However, given the fact that CST currently gets all its operating funds from other Scientology churches, that courts have found commercialism and financial inurement throughout Scientology, and given the close links to other Scientology organizations forged by the LRH will and by overlapping personnel, the overall finances of Scientology are highly relevant to CST's application.

Procedures for handling money in Scientology are remarkably complex. Income is generated chiefly by the Class IV churches and by the Missions, although income is also generated by the higher level churches. All Scientology services or "auditing" must be paid for, thus the Class IV churches and missions take in a considerable amount of money from individuals and independent ministers who purchase books, auditing services, and E-Meters from the local church or mission. Payments are made by the lower churches to 651 for ecclesiastical services, and as noted below, all lower level churches are expected to contribute to Central Reserves.

According to CST, each local church keeps several bank accounts, but all money initially is deposited into the "NO" No. 1 Account. From that account, money can be placed into at least one of nine accounts. These include accounts for money to be paid as attorney fees in the event of litigation, money to be paid to parishioners as a reward for completing a specified course of study, for refunding the fixed donation of a parishioner who is not satisfied with the materials or auditing services, and monies held "in reserve" in accordance with Scientology policy to be used for local purposes. In addition, each church keeps a separate account from which to pay its Field Staff Members' commissions and to cover the local expenses of higher level churches. Finally, each church keeps an account for miscellaneous expenditures that do not fall into any of the previous categories. In addition, some disbursements, such as the required payments to the United States Scientology Films Trust are made directly from FBO No. 1. These are license payments for the films provided to the local churches by the Films Trust.

The court notes that earlier policy letters refer to the requirement adopted in 1965 that all Scientology organizations create "Reserved Payment Accounts." These serve as temporary repositories for monies that may be disbursed to general creditors. Instructions associated with operation of these accounts make it clear that LRH discouraged prompt payment of bills, a policy he referred to as dateline paying. HCO Policy Letters of March 4, 1965 and March 28, 1965. "We aren't interested in bills as bills. We're interested in 'all bills earlier than a certain.'" HCO Policy Letter of 28 January, 1965. LRH instructs accounts personnel to take the following approach with tradesmen demanding full payment: "Just say to tradesmen who dun you, 'Oh, really?

We'll send you a cheque.' Never say how much." HCO Policy Letter of 28 March, 1965.

Some Scientology corporations are made up of more than one church organization. For example, the Church of Scientology Western United States is made up of the American Saint Hill Organization, the Advanced Organization of Los Angeles, the Continental Liaison Office for the Western United States, and its Estates Org which maintains the physical plant of the Western United States, and its Estates Org which maintains the physical plant of the Western United States church. Where this is the case, the smaller organizations maintain each of the above accounts independent from the others. There are sometimes transfers between the parallel accounts of different churches.

Before it can spend any of its money, each of the 141 local churches is required to submit as weekly proposed Financial Planning ("FP") report, which is the proposed budget for the church for that week. The report must be negotiated and approved by two committees composed of church executives (the Advisory Council and the Executive Council) both in which have line item veto power. The FP report is further subject to final approval of the local Flag Banking Officer ("FBO").

The FBO is charged with maintaining the financial prosperity and expansion of the church. The FBO prepares the FBO Weekly Report which contains the allocations a church has made to each of its bank accounts, as well as any amount the church will continue to Central Reserves to benefit Scientology as a whole. The FBO has a single level of ecclesiastical authority with which he or she ensures that all money is allocated and spend properly. The FBO is, in turn, ruled by the local Finance Enforcement Officer ("FEO"), who has higher ecclesiastical rank.<sup>21</sup>

#### 1. The Central Reserves

Each local church, mission, and higher level church is required to contribute to the Central Reserves of Scientology.<sup>22</sup> These play an important part in the structure of Scientology finances. Central Reserves are kept in accounts called, variously, central accounts, central bank accounts, SOR accounts or central reserve accounts. The actual money in the account, as distinct from the account itself, is identified as Sea Org reserves, SO reserves, or SOR.<sup>23</sup> The Central Reserves are the responsibility of the individual holding the office of WDC Reserves. The WDC Reserves is a high-ranking member of the Watchdog Committee, and also a member of the Sea Org.<sup>24</sup> The WDC Reserves' immediate juniors are the International Finance Director and the Flag Finance Director. All three of these officers are employed by CSI, and are Sea Org members.

The total amount of central reserves held by Scientology at any given time is difficult to calculate. There are the several Central Reserve accounts maintained by different management-level churches. In addition, there is the account into which the local churches pay their share of the reserves managed by WDC Reserves. In addition, all of the trusts formed by Scientology are considered part of Central Reserves. The Central Reserve account may also carry loans made by it to any of the local churches who may have needed to borrow money following, for example, a drop in auditing sales. Money reported as previously spent out of Central Reserves conservatively totals over \$94 million.

#### 2. Scientology Trusts

In addition to its many bank accounts, Scientology stores money in at least ten separate trusts. These trusts are considered part of the church's central reserve, and include the

International SOR Trust, International Publications Trust, SOR Management Services, the Church of Scientology Religious Trust, the Scientology Endowment Trust, the Church of Scientology Expansion Trust, the Buildings Trust, the Dissemination Trust, the International Missions Trust, and the Films Trust. The trusts own and/or control publication and distribution channels for religious books and products, and provide investment and financial management services. Some of them have been granted tax-exempt status by the IRS as religious trusts. Each of them has a specific place in the financial organization of the church and is supervised directly by its own Board of Trustees. As part of the central reserve system, the trusts are also subject to the ecclesiastical supervision of CSI. CSI ensures that trust monies are spent in accordance with orthodox Scientology policy.

### 3. Bridge Publications

Bridge Publications, Inc. ("BPI") is:

... a California for-profit corporation. BPI publishes and distributes the Scientology Scriptures (including books and recorded tapes), manufactures, repairs and distributes E-Meters, and publishes and distributes fiction works written by L. Ron Hubbard.

Sea Org members hold all of the upper level management positions in BPI, and many of its employees are Sea Org members. BPI is organized and operates (to the extent consistent with its status as a for-profit business corporation) in accordance with the Scriptures.

Prior to the incorporation of BPI in 1981, the publication and distribution of the Scriptures and the manufacture and distribution of E-Meters in the United States were activities of Church of Scientology of California. Upon incorporation of BPI, Church of Scientology of California (CSC) transferred the assets used in those activities to BPI in exchange for all of its capital stock. In 1982, CSC sold all of the shares of BPI to International SOR Trust, a non-U.S. religious trust. In 1985, International SOR Trust transferred the shares of BPI to International Publications Trust (IPT), which continues to own all of the shares.

IPT is a Scientology religious trust governed by three trustees. . . . Two of the trustees of IPT are non-resident aliens. The third is a United States citizen and resident and a staff member of CSI, holding the position of WDC Pubs, i.e., the member of the Watchdog Committee concerned with ecclesiastical matters relating to the publication, manufacture, distribution and sale of the Scriptures and of the E-meters.

In addition to the shares of BPI, IPT owns all of the capital shares of a for-profit holding company (a United Kingdom corporation) which in turn owns all of the capital shares of New Era Publications (NEP), the Danish for-profit publisher which publishes and distributes the Scriptures outside the United States. NEP is managed and primarily staffed by Sea Org members.

BPI has the right to publish the Scriptures and to manufacture E-Meters pursuant to agreements with NEP. NEP in turn has the right to produce these items and to license their production pursuant to agreements entered into with L. Ron Hubbard. Under these agreements, BPI pays royalties to NEP with respect to the copyrighted and patented articles, and NEP in turn pays royalties to Mr. Hubbard and his successors in interest, with respect to royalties received from BPI and with respect to items published directly by NEP.

P App. pp. 376-77. Thus BPI is ultimately controlled by three trustees, one of whom is a CSI staffer, the WDC Pubs. The

WDC, a function of CSI, in turn is more generally responsible for "oversee(ing) the entire international ecclesiastical management structure of the Church," including publication activities of BPI and NEP. P App. pp. 336-38, 375-80. BPI and NEP hold the requisite licenses to sell Scientology materials, and any payment made to BPI or NEP eventually devolves to the financial benefit of "Mr. Hubbard and his successors," which includes RTC and CST. Furthermore, all religious materials must be orthodox, and only materials licensed by CSI are orthodox. Although it is apparently the pour-over trust that currently receives royalties from the publication rights, it is CST that, under the will, stands to move into the position of ownership of those rights.

Thus, CST not only is positioned to support BPI's for-profit activities by furnishing authentic copies of archived materials,<sup>23</sup> it stands to receive royalties from the for-profit publishing companies, and, if it exercises its options over RTC, will receive royalties from use of the advanced technology. As to the supplying of Scientology services, in view of CSI's receipt from RTC of the license to use the trademarks, it would appear to have stepped into Mr. Hubbard's shoes to the extent of receiving payments for use of the marks. Presumably if CST exercises its option over RTC, it would be able to control those marks as well, thereby completing its ownership of the publishing rights, the advanced technology, and the marks.

### 4. The Doctrine of Exchange

During the administrative process, the IRS questioned CST regarding the doctrine of exchange. The doctrine of exchange requires that in order to receive, it is also necessary to give. A Scientologist is obligated to exchange something he values for anything he acquires. Thus, he must exchange cash for auditing services. He must exchange cash for Scientology books. He must exchange any original LRH documents he possesses for the satisfaction of advancing the Scientology cause. The doctrine was described as a fundamental belief of the religion, yet at other times, CST insists it is a minor part of Scientology. It has, however, consistently been cited as the explanation for why all Scientology religious services must be paid for by those receiving them. CST explains the doctrine as being based on early writings of LRH which discuss the importance of balancing inflow of money or services, for example, with outflow.

### G. Prior Litigation Involving Scientology

The instant litigation is not the first time a Scientology organization has been in court. At the administrative level, the Government relied in part on findings made by other courts in earlier litigation involving Scientology churches. CST opposed making such use of prior litigation, arguing that it occurred largely before CST even existed.

To the extent findings or conclusions in other cases are inconsistent with the record developed exclusively for CST, the record here controls. The court will, nevertheless, consider non-conflicting evidence introduced into the record from other litigation, and will take judicial notice of reported opinions dealing with Scientology organizations.<sup>24</sup> The court finds below that CST is inextricably linked to Scientology as a whole. It would have been naive for the Commissioner, and it would be equally naive for the court, to ignore the implications of the genesis of CST and its links to other Scientology organizations.

Courts that have examined the affairs of the other Scientology management churches have been persuaded that the

way in which Scientology operates is often indistinguishable from any commercial activity, and that church resources have been used for private benefit. In *Church of Scientology of California v. Commissioner*, 83 T.C. 381 (1984) ("CSC"), the court held that the Church of Scientology of California was no longer being operated in accordance with I.R.C. §501(c)(3) and therefore the IRS was entitled to revoke its tax-exempt status. The court in *CSC*, found substantial evidence of private inurement to LRH and his family, including salaries, management fees, complete support of LRH's family, and royalty payments on LRH's writings. *CSC*, 83 T.C. at 492. Additionally, the *CSC* court found "covert indicia of benefit" to LRH including repayment of unspecified debts, and LRH's absolute control over the millions of dollars resting in Operation Transport Corporation, Ltd." and the United States Churches of Scientology Trust. *Id.*

The court in *CSC* also found that the church had failed to carry its burden of proving that it was organized and operated exclusively for exempt purposes, and had failed to produce financial information, or had denied the IRS access to many financial records. The documents it did provide were turned over in a confused, disorderly fashion with no index and no assistance or explanation of what was contained in them. This lack of cooperation, on which the court remarked throughout the opinion, led it to hold that it could draw negative inferences from the evidence not produced. "The failure of a party to produce relevant evidence within its possession or control gives rise to the presumption that, if produced, it would be unfavorable." *CSC*, 83 T.C. at 502 (citations omitted). Based on the lack of information provided, the court found the United States Churches of Scientology Trust and the Operation Transport Corporation were run for the private benefit of LRH and his family. *CSC*, 83 T.C. at 500. The *CSC* court further found that the church of Scientology was operated for the substantial commercial purposes of tax evasion, making money, and criminally manipulating the IRS as a method of financial planning. *Id.* at 504.

In litigation, Scientologists continually have accused the IRS of singling them out for a unique kind of religious persecution. In *CSC*, the court examined the history of IRS actions against various Scientology churches and found that Scientology organizations have indeed been frequently investigated by the IRS. Many of the investigations were lengthy and far-reaching. The IRS expounded special instructions in a "Manual Supplement" issued to its investigators and attorneys specifically regarding the treatment of Scientology churches. Upon specific examination of the IRS's behavior in *CSC*, the court found no support for the Scientologists' claims of harassment. It found instead that the IRS had in fact been deliberate in its investigation of *CSC*, and had followed the same procedures used in investigations of other churches. The court also found that the Scientology churches' own behavior had more than justified the IRS's attention. *CSC*, 83 T.C. at 453.

Litigation involving Scientology organizations has often been protracted and combative. For example, even though the IRS revoked *CSC*'s tax-exempt status in 1967, *CSC* continued to file informational Form 990's and no other forms, even though it had been told to begin filing annual returns.<sup>23</sup> *CSC*'s, 83 T.C. at 382, 405. *CSC* ignored the IRS revocation, which it claimed it was entitled to do, since its tax-exempt status had been improperly revoked and was thus ineffective.<sup>24</sup>

In *Founding Church of Scientology v. United States*, 188 Ct. Cl. 490, 412 F.2d 1197 (1969), *cert. denied*, 397 U.S. 1009 (1970), members of the Founding Church of Scientology filed a refund suit. Plaintiffs claimed that they were a

religious organization under I.R.C. §501(c)(3), and therefore were entitled to have money previously paid in taxes refunded to them. The Court of Claims denied the claim. The court found that some of Founding Church's money inured to the individual benefit of LRH, his wife and son. This included a house maintained by the church, a percentage of the church's income, and other royalties and commissions. The court based its finding of inurement on informal loans made to LRH that were never sufficiently explained or documented.

In *Founding Church of Scientology, Inc. v. Webster*, 802 F.2d 1448 (1986), *cert. denied*, 484 U.S. 871 (1987), the plaintiff initiated a suit against William Webster, Director of the FBI. Founding Church members alleged that the FBI was harassing Scientologists for no permissible reason. The district court dismissed the litigation after the Founding Church of Scientology defied a court order to produce LRH for deposition. The case came to a standstill at the church's continued refusal to cooperate with a request to produce LRH for a deposition. The church took the position that LRH was no longer a "managing agent" of the church and therefore was not a party to the litigation. The FBI had submitted prima facie evidence that LRH was still a managing agent of the Founding Church and should appear for deposition. The Founding Church merely repeated its assertion that LRH was not a managing agent, and that in fact he had severed nearly all contact with the church management. The district court ordered the Founding Church to produce LRH for the limited purpose of countering the FBI's prima facie evidence. The court found that despite LRH's formal resignation from all management positions in Scientology, in fact he maintained control of Scientology's finances and policies through his position in the Sea Org and other covert means. "Ultimate control, we have no doubt, he possessed until his death." *Webster*, 802 F.2d at 1456. After eight years of pre-trial discovery, the district court dismissed the case.

In affirming, the circuit court noted that the Founding Church filed its complaint in the same year (1978) in which Mary Sue Hubbard and eight other high-ranking officials of the church admitted in a plea agreement that "the network of Scientology organizations had conducted a broad campaign against U.S. Government entities particularly the Internal Revenue Service." *Webster*, 802 F.2d at 1450. In fact, the *Webster* court noted that the same government investigations the Founding Church complained about were justified by, and a result of, the church's own illegal behavior. *Webster*, 802 F.2d at 1450 n.3.

In *United States v. Zolin*, 905 F.2d 1344 (9th Cir. 1990), *cert. denied*, *Church of Scientology v. United States*, 111 S. Ct. 1309 (1991), the Ninth Circuit found that the tapes of the MCCS conference, held in 1981, reveal that "[t]he figures involved in MCCS admit on the tapes that they are attempting to confuse and defraud the government." *Zolin*, 905 F.2d at 1345. The tapes were therefore not protected by the attorney-client privilege because they fell within the crime-fraud exception to the privilege.

#### H. Proceedings Before the Commissioner

The administrative process in this case began in 1983, when CST filed its initial petition for tax-exempt status. The process occupied nearly five years, ending on July 8, 1988, when the IRS issued its final adverse ruling. In the process, the parties put together one of the largest tax records ever accumulated. The Government complains, however, that on numerous occasions critical inquiries went unanswered, and that, despite its heft, the record is light on explanations. The court's examination of the record supports the Govern-

ment's critique. Although CST frequently inundated the IRS with material, numerous key points were not candidly addressed. CST responded to some of the IRS's questions, but it refused to respond to others, claiming it did not understand the question, or chose merely to refer to previous responses.

CST, CSI, and RTC all applied for tax-exempt status at the same time. The IRS requested information about the circumstances surrounding the founding of these three organizations. The IRS specifically asked who initiated and oversaw the reorganization of the Scientology hierarchy. The IRS also enumerated the connections it saw among the three applicants and the existing Scientology hierarchy and asked for comment. The IRS did not say it would never consider CST's application separately, only that until the apparent connections were explained, it could not. CST continually refused to answer these questions, demanding that the IRS treat CST's application independently of RTC and CSI. At one point, CST informed the IRS that "it did not agree" that the IRS could not rule on CST's application without information about other Scientology organizations. In that same letter, rather than provide information to explain why the IRS's reservations about CST's tax-exempt status were groundless, CST simply stated that it rejected assertions made by the IRS, and that the reservations were insignificant anyway.

When pressed for additional information on its relationship to other Scientology organizations, CST merely repeated its initial inadequate answer that it did not voluntarily recognize the hierarchical church. The IRS found that answer inadequate, and asked the question again. CST gave a similar answer: "This assertion implies that [CST] is a part of the Scientology hierarchy. It is not. See our letter to you dated 10 September 1984."<sup>28</sup>

Rather than offer an explanation of the option agreements it held under LRH's gift, CST stated instead, "We do not consider [the options] to be as you characterize them. However, the agreements speak for themselves."<sup>29</sup> On another occasion, CST refused to respond to allegations in affidavits from former church members that the MCCS conference was tasked with devising a new structure which would mask LRH's actual control of Scientology and make it appear that he no longer took an active role in running the church. CST replied that the IRS "had no business" relying on information from such people.

On April 22, the IRS again wrote to CST for additional information. CST's response contained nothing new. For example, the IRS inquired about Sherman Lenske, Stephen Lenske and Lawrence Heller and their role as CST's "special directors." Instead of providing a meaningful answer to the question, CST replied, "We commented upon your position in our earlier correspondence . . . [w]e request that you inform us of the relevance of their other associations to the exempt status of this organization."<sup>30</sup>

The final stage of the administrative process began in March 1988. The IRS sent agents to CST's headquarters to conduct an on-site review of the organization's financial activities and operations. CST had agreed to allow the investigation. The process came to an end in June 1988 when, according to the IRS, CST refused to cooperate with the agents' requests for records. CST denies that it refused to cooperate, but agrees that it sent a letter in protest to the IRS on June 24, 1988, because an IRS agent had interviewed Vicki Aznaran, formerly the Inspector General of RTC,<sup>31</sup> without first informing anyone from CST. Although CST vehemently protests that it did not refuse to cooperate further with the on-site review, the June 24, 1988 letter states, "With that, we informed Mr. Joseph that Applicants

were suspending the review until we resolved the matter with the National [IRS] Office."<sup>32</sup>

Following the issue of a Final Adverse Ruling letter on July 8, 1988, counsel for CST sent several letters to the IRS attempting to continue the administrative process and challenging the IRS's position that it had been uncooperative. The IRS did not re-open the record, and the Final Adverse Ruling remained as issued. CST brought the instant action to challenge that ruling.

## II. DISCUSSION

Income tax exemptions must be strictly construed, with any doubts to be resolved in favor of the taxing entity. *Harding Hospital, Inc. v. United States*, 505 F.2d 1068, 1071 (6th Cir. 1974). Consequently, determinations of the Commissioner are presumed correct. *Welch v. Helvering*, 290 U.S. 111, 115 (1933). To the extent that the Government relies on the grounds stated in the Commissioner's final decision, plaintiff thus bears the burden of proving its entitlement to an exemption. *Bubbling Well Church of Universal Love, Inc. v. Commissioner*, 670 F.2d 104, 106 (9th Cir. 1981); *Freedom Church of Revelation v. United States*, 588 F. Supp. 693, 696 (D.D.C. 1984). The court's review is based on the record below. *Church of Spiritual Technology v. United States*, 18 Cl. Ct. 247, 249 (1989). We accept as true statements in the record made by CST that were not challenged by the IRS. This does not obligate the court otherwise to accept conclusory statements contradicted elsewhere in the record.<sup>33</sup>

In order to qualify as a tax-exempt organization under I.R.C. §502(c)(3), CST must prove that it is both organized and operated exclusively for tax-exempt purposes. Treas. Reg. §1.501(c)(3)-1(d)(1)(i)(a). To meet the organizational test, CST must show that its Articles of Incorporation do not authorize it to undertake any non-exempt activity. I.R.C. §501(c)(3)-1(b)(i)(iii). Further, in the event of dissolution, all of its assets must be directed to exempt organizations. *Id.* §501(c)(3)-1(b)(4). This is chiefly a matter of careful drafting, and the court finds that CST has met this test.

To meet the operational test, CST must show that it operates exclusively for exempt purposes, that it has no substantial non-exempt purpose, and that no benefits inure from it to private individuals. See Treas. Reg. §1.501(c)(3)-1(c). The mere fact that an organization has a tax-exempt purpose or activity does not mean that it does not also have a purpose or activity that is non-exempt. One substantial non-exempt purpose will make an organization ineligible for tax-exempt status, even if all of its other purposes are exempt. *Better Business Bureau v. United States*, 326 U.S. 279, 283 (1945); *Freedom Church of Revelation*, 588 F.Supp. at 696. If CST devotes "more than an insubstantial part of its activities" in support of a non-exempt purpose it would still fail the operational test. Treas. Reg. §1.501(c)(3)-1(c)(1).

### A. CST's Application Must Be Viewed in Light of Other Scientology Activities and Organizations

CST has attempted to disassociate itself from any negative inferences to be drawn from other aspects of Scientology. For that reason, CST maintains that its status as an exempt organization must stand or fall upon its own documents and activities, not those of other Scientology organizations. *Parshall Christian Order v. Commissioner*, 45 T.C.M. (CCH) 488, 491 (1983). As a general proposition, this is correct. Where there is in fact no meaningful separation

between the entities in question, however, the connections between the organizations can at a minimum be considered to see if they bear on the merits of the application for exemption. In this case, there are a number of reasons that CST's tax-exempt status cannot be considered independently of other Scientology organizations. One is shown in the web of personnel links between CST and other Scientology groups, discussed above at pages 9-10, but there are at least three other connections.

CST is not a church,<sup>14</sup> therefore it must try to qualify as a religious organization.<sup>15</sup> Compare Treas. Reg. §1.501(c)(3)-1(d) with Treas. Reg. §1.511-2. Congress intended that the term "religious organization" have a less restrictive meaning in the tax code than the term "church." *Foundation of Understanding v. Commissioner*, 88 T.C. 1341, 1356 (1987). But the only religious aspect of CST is its connection to Scientology. CST has no exempt purpose absent the religious patina it draws from Scientology. Simply archiving a man's words is not inherently an exempt purpose. See, e.g., *Senior Citizens Stores, Inc. v. United States*, 602 F.2d 711 (5th Cir. 1979); *Miedaner v. Commissioner*, 81 T.C. 272 (1983); *Western Catholic Church v. Commissioner*, 73 T.C. 196 (1979), *aff'd*, 631 F.2d 736 (7th Cir. 1980). CST therefore derives its religious character, not from its activities *per se*, but from Scientology. CST recognizes this in its Articles of Incorporation: "[T]he corporation is formed . . . [t]o serve as a means of promulgating . . . the religious faith of Scientology around the World . . ." If the documents CST is preserving are religious, it is because they are the scriptures of the Scientology religion. If CST has a religious purpose it is to further the interests of Scientology by creating a durable record of its founder's teachings. This inextricably links CST to other Scientology organizations.

CST is also linked to Scientology through its authority to control the religion's income-producing property. CST has the power to dismantle RTC by taking over the religious trademarks and use of the Advanced Technology, thereby gaining direct control over all Scientology organizations that purchase trademarked material.<sup>16</sup>

CST claims that it does not and will not monitor RTC's use of the religious marks and technology. CST explains that there is no need to do so because any unorthodox use would be immediately obvious. Regardless of how it arrived at the conclusion, however, the point is that one of its obligations is to prevent misuse of the marks and technology. CST's present confidence in RTC has no significance. If CST ignored that element of its charter, one of the assumptions built into LRH's gift would be missing. Monitoring for a misuse by RTC is a form of ongoing oversight. The decision to exercise the option is an ecclesiastical one which would not be readily susceptible to judicial review. Upon exercise of the option, CST would inherit RTC's role as the final voice on Scientology orthodoxy. This would give CST ecclesiastical authority over even CSI, since "CSI itself is ecclesiastically subordinate to RTC." PPF 17. The conclusion which the court must necessarily draw from LRH's property distribution scheme is that CST has the absolute authority to take control of the bulk of the income-producing property of Scientology.

Indeed, the need for CST to take even the intermediate step of exercising its options may have been obviated. The Commissioner found RTC to be non-exempt. The gift to RTC was conditioned on its obtaining tax-exempt status. If the gift fails, as it appears to have, there is nothing over which to exercise an option. Assuming CST secures tax-exempt status, it would appear destined, as beneficiary of LRH's residual estate, to collect the balance of the income-producing property.<sup>17</sup>

The religious trademarks and rights to the Advanced Technology constitute most of the income-producing property owned by any of the Scientology organizations. The remainder of LRH's income-producing property is already designated for CST. Upon its qualification for tax-exempt status, CST could, therefore, obtain, by operation of LRH's will, all of the rights LRH reserved when he made his gift to RTC, as well as the copyrights to Scientology scriptures, which presumably constitute the very heart of Scientology. The copyrights to LRH's science fiction works will also devolve to CST under the will. This intellectual property alone was valued at \$25,000,000 by the trustee appointed by the court to administer LRH's estate.

In these circumstances, it is at best disingenuous for CST to maintain that it is "independent" of Scientology's ecclesiastical hierarchy. LRH certainly succeeded in creating an entity that is not nominally subject to the ecclesiastical control of other Scientology organizations. Rather, the potential control runs in the opposite direction. CST stands poised to assume a position at the apex of a pyramid of both ecclesiastical authority and financial control over Scientology.

Finally, the converse of CST's control in the area of orthodoxy is that until it obtains tax-exempt status, CST will be as it has been, entirely dependent on payments from other Scientology organizations. Indeed, CST's Articles of Incorporation specifically state that it does not solicit any funds itself, nor does it have any plans to do so.<sup>18</sup> CST states that it alone controls its financial matters. Possibly this is true with respect how money is spent once held by CST. It has not been true, however, with respect to obtaining the money that CST spends. All of this has come from other Scientology organizations, and could, presumably, be cut off.

In sum, there is a strong link, in fact an identity of purpose, between CST and other Scientology organizations. CST was created to serve LRH as a personal estate-planning device and to support the work of Scientology. CST would not exist without the rest of Scientology. Its activities and purpose must, therefore, be considered in light of its connection to Scientology as a whole. Although CST has repeatedly declared that it does not "voluntarily" recognize the authority of the Scientology hierarchy and thus is ecclesiastically independent of it, the statement is virtually meaningless in the context of this litigation. CST, therefore, has the burden of dispelling concerns raised by its association with other non-exempt entities.

## B. Substantial Non-Exempt Purpose of Scientology

### 1. Activity Cannot be Confused with Purpose

CST has assiduously developed a record which demonstrates that most, if not all, of its prior activities are directed at preserving scripture. CST does not sell or market archived material, or make any profit on its activities. But even if CST could show that 95 per cent of its employees did nothing but archive Scientology documents, and only the remaining five percent were in charge of CST's property interests and finances, that alone would not be enough to secure tax-exempt status. Congress did not intend for mere quantity of dedicated resources to be the deciding factor in whether an organization is operated for exclusively exempt purposes. Section 501(c)(3) contemplates that the IRS (and the court, if necessary) will inquire into the reality of an organization. "The bare fact that approximately half of each group is composed of not-for-profit organizations does not compel the conclusion that there is absent a substantial nonexempt purpose." *Copyright Clearance Ctr. v. Com-*

missioner, 79 T.C. 793, 809 (1982); See also *Better Business Bureau*, 326 U.S. at 283.

CST confuses activity with purpose. The law does not. As the Tax Court has held, "The operational test focuses on the purpose and not on the nature of the activity." *Goldsboro Art League v. Commissioner*, 75 T.C. 337, 343 (1980). The Commissioner, and the court, are permitted to consider not just an organization's activities, but also to inquire into its purposes. The fact that an organization's activities have religious overtones and do not produce profits is no assurance those activities will be tax-exempt. "[T]he critical inquiry is whether petitioner's primary purpose for engaging in its sole activity is an exempt purpose, or whether its primary purpose is the non-exempt one of operating a commercial business producing net profits for petitioner." *B.S.W. Group, Inc. v. Commissioner*, 70 T.C. 352 359 (1978); accord *Christian Manner Int'l, Inc. v. Commissioner*, 71 T.C. 661, 668 (1979).

In evaluating the real purpose of a transaction, the Supreme Court has cautioned against uncritical reliance on form as against function. *Gregory v. Helvering*, 293 U.S. 465, 470 (1935), involved a scheme to avoid taxation of corporate distributions by invoking a code provision applicable to reorganizations:

The whole undertaking, though conducted according to the terms of subdivision (B), was in fact an elaborate and devious form of conveyance masquerading as a corporate reorganization, and nothing else. The rule which excludes from consideration the motive of tax avoidance is not pertinent to the situation, because the transaction upon its face lies outside the plain intent of the statute. To hold otherwise would be to exalt artifice above reality and to deprive the statutory provision in question of all serious purpose.

In like fashion here, CST must demonstrate that it was organized for an independent and bona fide purpose. Given the prior history of Scientology and the peculiar circumstances of CST's birth, it is appropriate to look beyond the flurry of archiving activity and inquire into whether the very existence of CST was brought about primarily to serve the non-exempt ends of other Scientology organizations. Although CST is entitled to minimize its own taxes, it would be a misuse of I.R.C. §501(c)(3) if its primary *raison d'être* was to shield the income of other organizations from tax.

## 2. Scientology's Preoccupation with Finances

The court has attempted above to describe Scientology's Byzantine management structure and financial arrangements. The task is difficult, due to the proliferation of entities and accounts and the overlap of personnel. Scriptural emphasis on taking in money as well as passive resistance to tax inquiries has been described above.<sup>4</sup> Other courts have encountered this same phenomenon. The commercial character of the scriptures is manifest:

Scientology income is high in most orgs. But it IS high due to the investment of time and money in earlier years. So if the balance sheets omit all the money that was invested and show only the money that was made, they are false balance sheets. And that is what the government wants us to turn in — a false balance sheet that shows all income as profit with no repayment or retirement of debt.

HCO Policy Letter of 25 June, 1967.

The Doctrine of Exchange discussed previously is another indication of Scientology's preoccupation with money. While the parishioner may believe the exchange to be spiritually beneficial, it still has the hallmarks of a commercial ex-

change. The Supreme Court also came to this conclusion in *Hernandez*, 490 U.S. at 684, where the Court held that individuals who make auditing payments to Scientology are not entitled to take a tax deduction for them.

Moreover, the doctrine is abandoned in circumstances where LRH deemed it expedient for "rapid dissemination" of Scientology doctrine. In HCO Policy Letter of 1 January AD13, Central Orgs are instructed to process selected celebrities "who are just beyond or just approaching their prime." The scripture goes on to say, "The pay is to be 'Any contribution you would care to make if we have helped.' No other pay is demanded." This desertion of the presumably fundamental Doctrine of Exchange appears to be theologically unprincipled, but it is not unlike a commercial business strategically giving away services in an effort to increase sales by obtaining a celebrity endorsement.

A great deal of money is realized from the sale of auditing services and LRH's books. CSI fixes the retail price of LRH's books, in conjunction with the for-profit publisher, Bridge Publications, Inc. The prices are set with an eye to maximizing dissemination of the works as well as to maintaining a profit margin for the church bookstores. A minimum inventory is mandated by church policy. Further, Scientologists who work in the bookstores are entitled to earn commissions on the books they sell. There is little, if any, difference between such an arrangement and that maintained by any commercial bookstore. Indeed in the HCO Policy Letter of 14 May, 1959, LRH describes an even less charitable pricing policy for books: "Establish fully the printing cost. Multiply by five. This is the cost of the book to usual buyers. However, a book price can be further increased so that when one gets a 20% discount reduction he pays a whole figure."

The administrative record contains no figures as to the amount of money realized through the sale of LRH books. A court appointed appraiser, however, in valuing LRH's estate for purposes of probate, valued the entire estate at \$26,305,706, of which \$25,000,000 was the value of LRH's intellectual property, i.e., the copyrights and trademarks of his Scientology publications. That figure, even discounting the value of the E-meter patents and other non-publication elements, does nothing to dispel the appearance of commercial profitability. See *Goldsboro Art League*, 75 T.C. at 344; *B.S.W. Group*, 70 T.C. at 357.

The complexity of Scientology's financial procedures, its dizzying array of reticules, and the potential for virtually constant transfers of funds, inevitably raise questions about the propriety of a tax exemption for CST, due to its links to that system, which will be permanently forged upon a declaration of CST's exempt status. In that event, the assets of the pour-over trust devolve on CST — namely the right to the books, tapes, films and E-meters, along with the accumulated income therefrom. These, in turn, are licensed in part to for-profit entities for distribution. This arrangement simply does not resonate with the image of a tax exempt organization. Instead, it calls to mind Werner Heisenberg's uncertainty principle.<sup>4</sup> In Scientology's case, the opacity is so pronounced as to approach wilfulness. Organizations adjudged exempt simply do not exhibit the financial complexity or the phenomenal pre-occupation with money displayed by Scientology's management churches and organizers. See, e.g., *Universal Life Church, Inc. v. United States*, 372 F. Supp. 770 (E.D. Cal. 1974) (finding that organization that offered religious course of study and accepted, but did not require, payment for its materials was tax-exempt); *National Found., Inc. v. United States*, 13 Cl. Ct. 486 (1987) (holding that foundation that supported other exempt organizations with money it

collected from public was exempt because it gave away bulk of money taken in); *Goldsboro Art League*, 75 T.C. at 345 (finding that art league's sale of a few paintings of various local artists unrelated to League's exhibits was incidental to overall exempt educational purpose).

### 3. CST's Overriding Rationale is to be a Tax-exempt Organization

If CST is to be found tax-exempt, it must be because archiving is its primary purpose and archiving LRH's words is an exempt activity. Further, the court must find that holding the options and receiving LRH's estate are merely incidental to CST's existence. Instead, the court finds that the impetus behind CST was not archiving, charity, or even religious education, but rather was tax planning. Nothing about CST is consistent with its adopted posture as a simple document repository. A number of inevitable inferences from the record, unanswered by CST, lead to this conclusion.

First, there is the plain linkage between CST and the dissolution of CSC, as well as the difficulties Scientology as a whole was having in 1982 with the IRS. Before the creation of CST, CSC served Scientology as a tax-exempt entity. When it became apparent that CSC was likely to lose this status, LRH and the Scientology management restructured both the financial and the ecclesiastical organization of Scientology. CST was created in 1982, during the CSC litigation. It was founded by four non-Scientologist lawyers and Lyman Spurlock, President of CST and former personal employee of LRH, in the wake of CSC's dissolution.

Sartre wrote that "Man is not the sum of what he has but the totality of what he does not yet have, of what he might be." In like fashion, the court is struck by the centripetal force that will be generated should CST obtain tax-exempt status, and should it choose to exercise its option to take over assets from RTC. Armed with the trademarks and publishing rights, and with tax-exempt status, CST will be poised in the center of all of Scientology's financial resources, in position to exert a strong gravitational force on Scientology's income-producing assets." If CST were exempt as a church, it would be virtually insulated from public view, since it would not be required to file an annual return. I.R.C. §6033(a)(2)(A)(i). If CST were to qualify as a religious organization, it would be responsible for filing only an informational return. I.R.C. §6033(a).

If CST succeeds in its quest for exempt status, it will control the trademark and publishing rights to all of LRH's works." Those rights constitute most of Scientology's income-producing property. The trademarks and publishing rights are the source of the Advanced Technology from which all income production ultimately flows. Books and tapes must be orthodox. Provision of auditing services is impossible without authorized books, tapes, and E-Meters. These materials produce money in sufficient quantities to allow CSI to hold millions of surplus dollars in its central reserve account. The potential for abuse of the options and copyrights therefore is considerable. CST would not be obligated to donate the money to other non-profit groups, or even to contribute it to Scientology's own central reserves. In fact, once CST has built its archiving facilities, its expenses should decline dramatically, but it will still control millions of dollars worth of income-producing assets.

Next there is the dissonance between the stated, limited purposes of CST on the one hand, with the far reaching implications of the potential financial control over Scientology built into LRH's tax planning. CST has already demonstrated that it can perform its archiving activities on the

largesse of other Scientology organizations. Thus, the argument that CST must be self-sustaining is without merit. Its insistence that it was intended to be independent is unpersuasive because, as currently structured, it is not. If the true motivation behind CST were to build an archive, it would have been a simple matter to incorporate an organization and arrange for financing through the central reserves, or to have all Scientology churches contribute to funding the archive, or to have some other straightforward financing scheme.

What other possible purpose could there have been for funneling LRH's estate to an organization with such a nominally limited and innocuous function unless it was the hope that Scientology had achieved the holy grail — an organization with unassailable tax-exempt credentials, yet in control of the income from the myriad sources within Scientology?"

This concern is exacerbated by the fact that CST will receive nothing from LRH's estate if it is not deemed tax-exempt. Thus, it appears that despite the stated importance of its archives to the Scientology religion, they were apparently not worth supporting unless they generated a tax exemption. Protecting the use of Scientology trademarks and copyrights is also apparently not worth doing if it will not be done by a tax-exempt organization.

Conditioning the receipt of property on obtaining tax-exempt status is "an element that indicates the possibility, if not the likelihood, that the for-profit corporations were trading on such status." *Est of Hawaii v. Commissioner*, 71 T.C. 1067, 1080 (1979), *aff'd*, 647 F.2d 170 (9th Cir. 1981); *see also McGahan v. Commissioner*, 76 T.C. 468, 480 (1981), *aff'd*, 720 F.2d 664 (3d Cir. 1983); *Basic Bible Church v. Commissioner*, 74 T.C. 846, 850 (1980), *aff'd*, *Granzow v. Commissioner*, 739 F.2d 265 (7th Cir. 1984). It becomes apparent that "the sole reason for incorporating the Church and transferring the royalty rights to the book was an attempt to avoid taxes whereby royalty income would be exempt and any contributions would generate a deduction." *Miedaner*, 81 T.C. at 280 (footnote omitted).

CST is linked by a cat's cradle of connections to RTC, CSI, and through them, to the rest of Scientology, thereby belying its claim of disinterest in the activities of other organizations. This fact, coupled with the commercial character of much of Scientology, the difficulty that its management churches have had with tax exemption, Scientology's virtually incomprehensible financial procedures,\* its scripturally-based hostility to taxation, the timing of CST's genesis and finally plaintiff's enormous potential for both accumulating wealth and bestowing shelter from taxation, inevitably lead to the conclusion that archiving is not plaintiff's "exclusive" or even chief purpose. The inference is inescapable that CST is merely the latest incarnation of the on-going effort of Scientology as a whole to shelter income from taxation. Consciously or not, CST's organizers reflected an awareness of the truth of Goethe's maxim that "one must be something to be able to do something." The court concludes that CST's real function was to be rather than to do.

### C. CST's Lack of Cooperation with the IRS

The court notes an independent basis for rejecting the application. The plaintiff had to demonstrate to the Commissioner, and bears a related burden of proof here, that it is entitled to be exempt from paying taxes. In that connection, it has to be observed that CST's participation in the administrative process reflects a level of hostility and uncooperativeness that is inconsistent with removing doubts. Numerous courts have upheld the denial of an exemption on the basis

of an organization failing to provide information requested by the IRS. In denying an exemption to the Founding Church of Scientology, the court noted, "[N]othing we have found in the record dispels the substantial doubts the court entertains concerning [the plaintiff]. Since plaintiff has failed to meet its burden of proof, we hold therefore that a part of the corporate net earnings was a source of benefit to private individuals." *Founding Church*, 188 Ct. Cl. at 500; *Basic Unit Ministry of Alma Karl Schurig v. United States*, 511 F.Supp. 166 (D.D.C. 1981), *aff'd*, 670 F.2d 1210 (D.C. Cir. 1982); see also *National Ass'n of American Churches v. Commissioner*, 82 T.C. 18 (1984); *World Family Corp. v. Commissioner*, 81 T.C. 958 (1983); *People of God Community v. Commissioner*, 75 T.C. 127 (1980).

The court has referred above to a number of instances in which CST was less than forthright in its dealings with the IRS. Its refusal to provide information even when repeatedly requested, combined with the IRS's experience with other Scientology organizations, made it reasonable for the IRS not simply to accept at face value CST's contentions that it was independent of the Scientology hierarchy, and to probe further. CST failed to respond substantively to the IRS's questions on a sufficient number of occasions during the administrative proceeding.

This behavior is not only understandable from a Scientologist's viewpoint, it is "scripturally" mandated. In HCO Policy Letter of 26 December, 1966, LRH instructed his executives (high church officials) in "Methods of Balking" when faced with a tax investigation. This includes the advice, "Never give such persons access to persons high up in the org — or unit. Turn such over to special personnel who can get the business over with at once and get the agent off the premises soon." HCO Policy Letter of 18 February, 1966 deals with "Attacks on Scientology," and LRH states "Groups that attack us are to say the least not sane ... These people who attack have secrets. And hidden crimes. They are afraid." Thus, concludes the scripture, the way to deal with these "mad" people is by attacking first, and blankly refusing to cooperate. Finally, HCO Policy Letter of 3 February 1966 states, "ALL OUTGOING MAIL to attorneys, tax cruds, the alleged government, the Council, etc. ... must be sent to the Legal Officer BEFORE MAILING. ..."

The theological hostility to paying taxes evident in the scriptures also supports the close attention of the IRS. Although CST is fully entitled under the Constitution to believe that paying taxes is spiritually wrong, it cannot then be surprised that its position invites scrutiny.<sup>4</sup> Just as a group which advocates violence will attract police observation, a group which has historically displayed reluctance to pay taxes can expect the watchful eye of the IRS. Furthermore CST's right to oppose and resent the IRS does not change the fact that helping non-exempt groups avoid paying taxes is not the basis for an exemption. Religious belief cannot be used as a magic wand to transform tax avoidance into a tax exemption. *Ecclesiastical Order of ISM of AM, Inc. v. Commissioner*, 80 T.C. 833 (1983), *aff'd*, 740 F.2d 967 (6th Cir. 1984), and *cert. denied*, 471 U.S. 1015 (1985). Nor does it excuse CST from dispelling the Commissioner's doubts about it. The IRS was thus justified in finding that CST had failed to carry its burden of proving its exempt status.

#### CONCLUSION

The court does not question the sincerity of the beliefs of those who practice Scientology. Nor does the court hold that Scientology is not a religion. Plainly it is. The limited issue

before the court, however, is whether CST has met its obligation of demonstrating that the Commissioner's decision was erroneous. It has not. There was sufficient evidence in the administrative record to support the Commissioner's finding that CST has not shown itself to be an exempt organization under §501(c)(3). The Clerk is directed to dismiss the complaint.

/s/ ERIC G. BRUGGINK  
Judge

<sup>1</sup> The opinion of May 26, 1992, was vacated and corrections were made pursuant to the Order on Reconsideration of June 29, 1992.

<sup>2</sup> A list of the acronyms used throughout this opinion is attached as an appendix.

<sup>3</sup> Treasury Regulation §1.501(c)(3)-1(d)(1)(i) states that an organization may be exempt if its exclusive purpose is religious, charitable, scientific, testing for public safety, literary, educational or prevention of cruelty to children or animals.

<sup>4</sup> See discussion *infra* p.5.

<sup>5</sup> *Hernandez v. Commissioner*, 490 U.S. 680 (1989).

<sup>6</sup> *Church of Scientology of California v. Armstrong*, No. 420153, (Super. Ct. Los Angeles 1984).

<sup>7</sup> *United States v. Zolin*, 905 F.2d 1344 (9th Cir. 1990), *cert. denied*, *Church of Scientology v. United States*, 111 S.Ct. 1309 (1991).

<sup>8</sup> CST opposed the court's suggestion that the tapes be made part of the record here, but finally agreed, one month after oral argument, to make a transcript available to the court. Before CST would produce the transcript, however, the court had to agree that the transcript would be kept under seal, and further, that neither the transcript, nor any "commentary about it ... [would] become part of the public record." The court declines the offer, but makes two observations about it. First, it shows that CST has access to the tapes; Second, if the court were to comment on the transcript in this opinion, the offer contemplates that this opinion itself would not be accessible to the public.

<sup>9</sup> After the church was "simplified," the record suggests that at least the following organizations constitute the church of Scientology: Founding Church of Scientology; Church of Scientology International; Religious Technology Center [including the Authorization, Verification and Correction Unit]; Church of Spiritual Technology; 129 Missions of Scientology, governed by Scientology Missions International; Church of Scientology Celebrity Centre International; 141 Class IV churches [local organizations such as the Church of Scientology of Portland or the Church of Scientology of San Francisco]; Continental Liaison Offices [known as CLOs]; Saint Hill Organizations; Church of Scientology Flag Service Organization; Flag Land Base; Flag Estates Org; Flag Command Bureaux [including Compilations Unit, LRH Artist, International Training School, New World Corps, Strategic Book Marketing Unit]; International Hubbard Ecclesiastical League of Pastors [known as IHELP]; Sea Organization Officer Council; the American Saint Hill Organization; Advanced Organization Los Angeles; Golden Era Studios; Watchdog Committee; the Commodore's Messenger Organization International; the Executive Director International; the Senior Executive Strata; the International Network of Computer Organized Management; World Institute of Scientology Enterprises; Golden Era Productions; Office of Special Affairs International; Bridge Publications; LRH Public Relations International; Household Unit; Inspector General Network [comprised of the Trademark Integrity Division and the Qualifications Division]; the United States Scientology Films Trust; International Scientology Films Trust; Author Services Inc., Can-corp, Religious Research Foundation; International Association of Scientologists; Church of Scientology Religious Trust.

<sup>10</sup> For a discussion of CST's place in Scientology hierarchy, see *infra* pp. 8-9.

<sup>11</sup> Scientology materials refer to the organizations which are in charge of ecclesiastical and administrative affairs as "Advanced Organizations" and explains that "Advanced Organizations deal in the upper level of [Operating Thetans]. They are staffed with Sea Org Members. They have direct lines to Flag." L. Ron Hubbard, *Modern Management Technology Defined* 12 (1976).

<sup>12</sup> Saint Hill was the name used for the English manor house purchased by LRH in 1959 which served as Scientology's headquarters. The Hubbard Communications Office was moved there in 1959 from its previous location in London. The office was the source of all Policy Letters issued by LRH. Policy letters, considered part of the Scientology scriptures, covered subjects ranging from proper management technique, to dealing with government agencies, to



maintaining a sufficient level of income in all Scientology organizations. LRH also used Saint Hill as a place where those training to become Scientology ministers could live while receiving training. LRH sold the Saint Hill facility to the Church of Scientology of California in 1966. *Church of Scientology of California v. Commissioner*, 83 T.C. 381, 494 (1984).

"The Class levels extend up to Class XII. L. Ron Hubbard, *Modern Management Technology Defined* 82 (1976).

"IRS Publication 78, Cumulative List of Organizations described in Section 170(c) of the Internal Revenue Code, is updated and published annually by the IRS. The List as revised to September 30, 1989, lists the Churches of Scientology for Boston, Florida, Hawaii, Michigan, Minnesota, Missouri, Nevada, New York, Portland (Oregon), Sacramento, Texas, Washington State, and Western United States (Los Angeles) as being exempt organizations to which people can make tax deductible contributions. The last named is apparently the successor organization to the Church of Scientology of San Diego, and is not a Class IV church but conducts the activities of The American Saint Hill Church Organization, the Advanced Organization Los Angeles, and the Continental Liaison Office. Appendix to Plaintiff's brief of October 15, 1990, p.355. It is not clear to the court how these latter entities operate.

"The Flag Banking Officer is a high-ranking official in the financial hierarchy of Scientology organizations.

"See discussion *infra* p.14, n.23.

"The Scientology Marks are trademarks which appear on all Scientology materials, and serve as guarantee of orthodoxy. The Advanced Technology is the advanced scriptures, literature and materials of Scientology.

"Scientology services are required to be orthodox. This means that they must be provided under the "imprimatur of certain marks associated with the religion." PPF 9 Although orthodoxy is not clearly defined in the record, the court notes it has at least the result of requiring all churches to buy materials licensed through CSI, the current mother church. See discussion *infra* at pp. 14-16. All of LRH's works are copyrighted with formal licensing arrangements made between LRH and the distributing churches.

"The following copyrighted materials were included in LRH's bequest to CST: a) HOC Policy Letters; B) HCO Bulletins; c) Miscellaneous directives and orders concerning ecclesiastical matters; d) Tapes of lectures on Scientology and the rendering of Scientology services; e) Instructional films on Scientology.

"Letter from Lyman Spurlock, President of CST to IRS of September 10, 1984, at 5. The E-Meter, as described by LRH, is "[a]n electronic instrument for measuring mental state and change of state in individuals, as an aid to precision and speed in auditing." L. Ron Hubbard, *Understanding the E-Meter* 104 (1982).

"FBOs and FEOs are themselves subject to the authority of their respective networks. The FBO Network is comprised of staff members of the Continental Liaison Office. The FEO Network is comprised of Continental Finance Ethics Officers, staff members of the Continental Liaison Offices. These officers are in turn supervised by the Flag Finance Ethics Officer, who is an employee of CSI.

"CST apparently maintains its own Central Reserve account.

"This money is managed by Sea Org members through SOR Management Services, Ltd., a for-profit corporation in the United Kingdom, which acts as an agent for U.S. churches and trusts which hold Central Reserve Accounts: CSI, CSFSO, CSC and the Churches of Scientology of New York, Boston, Las Vegas, and Portland.

"See discussion *supra* at 6-7.

"CST has two roles with respect to films and tapes as well. Under LRH's will, CST stands to take ownership of those assets. It is also responsible for archiving such materials. Nevertheless, until CST's rights are clarified, BPI and CSI will be involved with receipt of proceeds from the production and distribution of films and tapes. LRH licensed his copyrights in the films to CSC in 1982 for distribution in the United States. Outside-the-United States distribution was to be done by an entity designated by LRH. Golden Era Studios was set up by CSC to reproduce audio tapes and to produce motion pictures. CST represented to the Commissioner that "in 1985, CSC sold the assets of Gold to CSI, and since then all activities of Gold have been conducted by CSI." The United States Scientology Films Trust was created to distribute the films to churches in the United States, "to receive license fees from them, to pay over to CSC its costs of production and thereafter to retain and expend the amounts received from the churches for religious purposes." After having paid for the films, the trust has collected "in excess of \$3 million." As to tapes, BPI "is licensed to copy the tapes," presumably under a prior arrangement with LRH.

"See *United States v. Estep*, 760 F.2d 1060, 1063 (10th Cir. 1985); see also *E.I. Du Pont De Nemours & Co. v. Cullen*, 791 F.2d 5, 7 (1st Cir. 1986) (court took notice of complaint filed in state court proceeding which dealt specifically with matters at issue in federal proceeding and where neither party disputed document's

authenticity.); *St. Louis Baptist Temple, Inc. v. FDIC*, 605 F.2d 1169, 1172 (10th Cir. 1979) (federal court may take notice of proceedings in other courts which have a direct relationship to matters at issue). See generally, IX Wigmore on Evidence §§2578-2579 (Chadbourn rev. 1981).

"Operation Transport Corporation, Ltd. ("OTC"), is a non-charitable Panamanian corporation, found by the court in CSC to be run by the Flag Banking Organization ("FBO"). CSC, 83 T.C. at 387. OTC was found to be a sham corporation for which FBO created financial records to give the false impression of a legitimate, independent existence. *Id.* at 505.

"Form 990 is a form filed by non-profit organizations.

"The proper procedure, of which CSC had been notified by the IRS, would have been for CSC to have filed the forms appropriate for an organization no longer exempt, pay the tax then assessed, and then apply for a refund. I.R.C. §6011(a); CSC, 83 T.C. at 404. The right of CSC to pursue an administrative review of the revocation does not change the fact that revocation letters are effective upon their issuance. Treas. Reg. §601.20(n)(6).

"Letter from CST to IRS of November 7, 1984.

"Letter from CST to IRS of September 10, 1984.

"Letter from CST to IRS of June 26, 1985.

"The post of Inspector General of RTC is described by CST as "the highest ecclesiastical position within RTC." [P App. p. 361]

"Despite CST's objections, the IRS agents were well within the law in contacting Ms. Azmaran. The IRS is authorized to contact any person and take testimony from that person "as may be relevant or material." I.R.C. §7602(a).

"*World Family Corp. v. Commissioner*, 81 T.C. 958, 965 (1983).

"CST represents that it is a religious corporation organized to accomplish the activities of a church. Despite its name, CST is not itself a church as defined in the tax laws. It is not "a coherent group of individuals and families that join together to accomplish the religious purposes of mutually held beliefs," which the Tax Court has identified as a defining characteristic of a church. *Church of Eternal Life v. Commissioner*, 86 T.C. 916, 924 (1986). Nor does it have a sufficient amount of the characteristics of a church specified by this court in *Church of the Visible Intelligence that Governs the Universe v. United States*, 4 Cl. Ct. 55, 64 (1983). The only characteristic of a church that CST does have is independent legal existence. That alone does not suffice for CST to qualify as a church under the tax code. As an archiving body, CST does not assemble parishioners regularly to worship. See *American Guidance Found., Inc. v. United States*, 490 F. Supp. 304, 306 (D.C.C. 1980). It provides Scientology services to its staff members, but this is incidental to its chief stated function of making an archive. The incidental provision of religious services is not sufficient to qualify an organization as a church. *Foundation of Understanding*, 88 T.C. at 1357 (citing *De La Salle Inst. v. United States*, 195 F. Supp. 891, 901 (N.D. Cal. 1961)).

"The distinction matters because churches receive more favorable treatment under the Internal Revenue Code than do religious organizations. For example, churches may be investigated by the IRS only in accordance with strict and specific procedures specified in I.R.C. §7611.

"This really means all organizations, because only trademarked materials are considered orthodox in the religion.

"CST represented to the Commissioner in 1985 that it understood its rights to include the following: "[I]n the event it is determined that Religious Technology Center is not exempt, this corporation will exercise its options and acquire the marks and materials..." (Emphasis supplied.) In its 1987 Supplemental Submission, CST attempted to back away from this interpretation, but still conceded

if [the IRS] recognizes CST's exemption, CST would have the power to acquire RTC's rights in the marks and Advanced Technology if RTC's exemption were denied. When its exemption is recognized, CST will receive Mr. Hubbard's estate and become owner of the limited powers of appointment over the marks and the Advanced Technology that Mr. Hubbard retained. As owner of these interests, CST will have the legal right to designate the section 501(c)(3) transferees of RTC's rights in the marks and the Advanced Technology. In the event RTC cannot obtain exemption. As a section 501(c)(3) organization, CST itself would qualify to receive these rights. (Emphasis supplied.)

"The fact that CST does not raise its own funds is itself unusual for a would-be I.R.C. §501(c)(3) organization, and limits its ability to be independent. In *B.S.W.*, 70 T.C. at 539 the court denied a tax-exemption and stated, "its financing does not resemble that of the typical I.R.C. §501(c)(3) organization. Petitioner has not solicited, nor has it received, voluntary contributions from the public."

"Examples of LRH's interest in maximizing income and minimizing taxes, such as the following, are legion:

Make lots of money. Spend it frugally. So it gives a tax problem. So what? Your accountants should be capable of avoiding tax problems. Whether you do or don't have money, you will always have a tax problem because governments are crazy. The way to solve tax problems is to have money, not to be broke.

Taxes exist only to destroy businesses. Be impudent. Get rich and to hell with them. Governments are just a reactive bank we have to live with for a while. Learn to handle them. But not by refusing to make money or have it.

HCO Policy Letter of 28 January, 1965.

Now as to TAX why this is mainly anybody's game of what is a PROFIT. The thing to do is to assign a significance to the figures before the government can. The whole thing is a mess only because arithmetic figures are symbols open to ANY significance. So I normally think of a better significance than the government can. I always put enough errors on a return to satisfy their bloodsucking appetite and STILL come out zero.

HCO Policy Letter of 25 June, 1967.

"Heisenberg postulated that it is impossible to determine at the same time both the position and velocity of an electron.

"CST states that it would never seek to control these assets, or use them in any way inconsistent with the stated religious purposes of Scientology. CST has provided only conclusory statements of its own officers as evidence of CST's intentions. The court in *People of God Community v. Commissioner*, 75 T.C. 127, 132 (1980), found similar conclusory assertions unpersuasive and insufficient to carry petitioner's burden of proof. Moreover, CST has stated on at least one occasion that "it will exercise its options and acquire the marks and materials." DFFF 61.

"It is no answer that the court's concern is with potential developments — that the court is merely speculating. There is nothing speculative about LRH's will, the denial of RTC's exemption, and the value of the marks and copyrights. The culmination of the events set in motion by LRH lacks only the court's sanction.

"Plaintiff has argued that the intention of CST's founders is irrelevant to the determination of CST's status. That is, as long as CST's primary purpose was religious, and it otherwise met the requirements of L.R.C. §501(c)(3), private motives, in this case the advancement of interests of other non-exempt organizations, would not be relevant. Just as genuinely charitable intentions will not save a commercial undertaking from being commercial, CST argues that commercial intentions will not transform a charitable undertaking into an uncharitable one. *Scripture Press Found. v. United States*, 152 Ct. Cl. 463, 469-470, 285 F.2d 800, 804 (1961), cert. denied, 368 U.S. 985 (1962). This argument is flawed because it assumes CST's primary purpose was religious. Lacking this premise the argument is irrelevant. The motives of the founders will be considered to the extent they illuminate CST's function and purpose.

"The court notes that HCO Policy Letter of 15 May, 1968 gives the following instructions regarding explanations of an org's general liability fund: "Refuse to breakdown the calculations on how the fund is computed if demanded by an insurance inspector or tax collector, instead obtain an estimate of coverage costs from brokers recommended by Legal WW, to confirm our cost assignment to fund."

"See also, HCO Policy Letter, 25 June 1967, states "[t]he real stable datum in handling tax people is NEVER VOLUNTEER ANY INFORMATION." And from the same letter, "Right now there is a lot of tax yap. And it is being set up to clobber Scientology with huge tax bills in England and the U.S."

"Tax exemptions are a matter of legislative grace, and organizations seeking a tax exemption "are expected to follow the reasonable standards enacted by Congress and devote themselves exclusively to the pursuit of religious purposes." *Parker v. Commissioner*, 385 F.2d 792, 795 (8th Cir. 1966), cert. denied, 385 U.S. 1026 (1967).

APPENDIX

GLOSSARY OF ABBREVIATIONS

A

AO-SH - Advanced Organizations - Saint Hill  
 ASI - Author Services, Inc.

B

BPI - Bridge Publications, Inc.

C

CLO - Continental Liaison Office  
 CSC - Church of Scientology of California  
 CSFSO - Church of Scientology Flag Service Organization  
 CSI - Church of Scientology International  
 CST - Church of Spiritual Technology

D

DPFF - Defendant's Proposed Finding of Fact

E

E-Meter - Electro Meter

F

FBO - Flag Banking Officer  
 FBO INT - Flag Banking Officer International  
 FEO - Finance Enforcement Officer  
 FP - Financial Planning

H

HCO - Hubbard Communications Office  
 HCO PL - Hubbard Communications Office Policy Letter

I

IPT - International Publications Trust  
 IRS - Internal Revenue Service

L

LRH - L. Ron Hubbard

M

MCCS - Mission Corporate Category Sort-out

N

NEP - New Era Publications

O

OTC - Operation Transport Corporation, Ltd.

P

PPFF - Plaintiffs Proposed Finding of Fact

R

RTC - Religious Technology Center

S

SOR - Sea Organization Reserves

W

WDC - Watchdog Committee  
 WW - World Wide

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: NOTICE OF MOTION AND MOTION FOR RECONSIDERATION OF ORDER GRANTING MOTION FOR CHANGE OF VENUE TO NORTHERN DISTRICT OF TEXAS; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATIONS OF RICHARD N. AZNARAN, VICKI J. AZNARAN, JOHN C. ELSTEAD AND FORD GREENE; PROPOSED ORDER

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California: SEE SERVICE LIST

- (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.
- (Personal Service) I caused such envelope to be delivered by hand to the offices of the addressee.
- (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

DATED: September 10, 1992

